

Exhibit F

January 25, 2012 Transcript of Deposition of Timothy Halloran

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

BERNARD WARD and COLLEEN
HALLORAN,

Plaintiffs,

vs.

CASE NO. CGC-11-511574

GMAC MORTGAGE, LLC and DOES
1-20,

Defendants.

DEPOSITION OF TIMOTHY HALLORAN
San Francisco, California
Wednesday, January 25, 2012
Volume I

Reported by:

LORI STOKES

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PAGES 1 - 105

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Defendants.

Deposition of TIMOTHY HALLORAN, Volume I, taken on
behalf of Defendant, at One Embarcadero Center, Suite
2500, San Francisco, California, beginning at 10:34
a.m. and ending at 2:40 p.m. on January 25, 2012,
before LORI STOKES, Certified Shorthand Reporter No.
12732.

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1 San Francisco, California, Wednesday, January 25, 2012

2 10:34 a.m.

3
4 TIMOTHY HALLORAN,
5 having been administered an oath, was examined and
6 testified as follows:

7
8 EXAMINATION

9
10 BY MR. BUELL:

11 Q Good morning. Could you state your name for
12 the record.

13 A Timothy Halloran.

14 MR. BUELL: Let's just go ahead and start off
15 the easy way and mark for Exhibit 17 the depo notice.

16 (Deposition Exhibit 17 was marked for
17 identification by the court reporter.)

18 BY MR. BUELL:

19 Q Mr. Halloran, could you state for the record
20 what your occupation is.

21 A Licensed attorney practicing in California.

22 Q And as a result, have you participated in
23 depositions before?

24 A Yes.

25 Q Have you ever had your deposition taken

1 before?

2 A I may have.

3 Q Recently, in the last five years?

4 A Probably not.

5 Q I assume you're comfortable with the process
6 of a deposition seeing how you've taken some yourself?

7 A Yes.

8 Q So if you're comfortable with it, we can skip
9 the opening admonitions, as you know how the process
10 works.

11 A Yes.

12 Q Only thing I will ask you is, is there any
13 reason today that you can't give accurate and true
14 testimony?

15 A No.

16 Q Moving forward, you've been presented with
17 what's been marked as Exhibit 17.

18 Have you seen this document before?

19 A Yes.

20 Q Could you tell us what it is, please.

21 A It's an Amended Notice of Deposition Subpoena
22 and Amended Request for Production of Documents and
23 Things of Timothy J. Halloran.

24 Q Have you reviewed this document before?

25 A Yes.

1 Q And if you wouldn't mind turning to Page 2.

2 Have you produced or brought with you today
3 any of the documents listed on Pages 2 and 3?

4 MS. STROMEYER: Yes. We're producing
5 documents that are marked 1 to...

6 MR. BUELL: 85.

7 MS. STROMEYER: Thank you.

8 MR. BUELL: All right, thank you.

9 Q All right. You stated for the record that
10 your occupation is an attorney.

11 Does your practice currently entail any work
12 in the mortgage area?

13 A It's sort of a vague question, but I do
14 litigation involving mortgage work, yes.

15 Q Have you ever worked on -- let's clarify.

16 In the last five years, have you worked on a
17 case involving a loan or loan modification?

18 A Yes.

19 Q Would you say a majority of your practice
20 involves disputes involving loans?

21 A As opposed to mortgages?

22 Q Let's clarify for the record, just for
23 purposes of my question going forward, I will try to
24 use the term loans just to make it more broad in
25 general.

1 As California is a Deed of Trust state,
2 mortgage can be somewhat confusing, so I'll refer to
3 the term loan, and if I use the term mortgage, I do
4 mean a loan. I apologize for that.

5 A Yeah.

6 Q I'll rephrase the question and just make the
7 record more clear.

8 In the last five years, would you say a
9 majority of your practice has been in litigation
10 involving loans or loan modifications?

11 A No.

12 Q Would you say just 5 percent of your
13 practice?

14 A I don't know. I can't give you an estimate.

15 Q Okay. Have you, as part of your practice,
16 done any loan modification negotiations on behalf of a
17 client where there was no litigation?

18 A Yes.

19 Q Other than this case?

20 A Yes.

21 Q Would you say you've done that more than five
22 times in the last five years? I'm looking for an
23 estimate.

24 A I don't think so.

25 Q And these are estimate questions, I'm not

1 going to pin you on specifics.

2 A Yeah.

3 Q And those instances where you have had
4 negotiations on loan modifications, you've been
5 directly negotiating with the lender with regards to
6 obtaining a modification for your client?

7 A That would typically be the case, or the
8 attorney representing the lender, yes.

9 Q So through that practice, are you somewhat
10 familiar with loans and how they work?

11 A Sure.

12 Q And do you generally understand the terms of
13 loans, rate, maturity date, unpaid principle balance,
14 et cetera?

15 A I don't know what you mean by that question.

16 MS. STROMEYER: Objection. Vague and
17 ambiguous as to the terms of loans.

18 BY MR. BUELL:

19 Q Sure. Let me be more specific, and then I'll
20 go down each one.

21 Do you generally understand what an unpaid
22 principle balance is?

23 A I understand that term.

24 Q And what would you define that term to mean?

25 A I don't know that I would define the term. I

1 know what it means.

2 Q Okay. What do you understand that to mean?

3 A It's the money still owned on the principle
4 loan.

5 Q And as part of your negotiation practice,
6 have you taken part in negotiating the unpaid principle
7 balance on a loan?

8 A Sometimes.

9 Q In an attempt to reduce or modify the
10 principle balance?

11 A Sometimes.

12 Q And are you familiar with the term interest
13 rate?

14 A Yes.

15 Q And as part of your modification negotiation
16 practice, have you had discussions relating to lowering
17 or modifying the interest rate on a loan?

18 A Sometimes.

19 Q Are you familiar with the term stepped rate?

20 A Not as you state it, no.

21 Q That's fine. Fixed rate?

22 A Sure.

23 Q And adjustable rate?

24 A Sure.

25 Q What would you define adjustable rate to

1 mean?

2 A It adjusts.

3 Q Periodically, depends on the terms?

4 A Yeah, I guess that's a pretty fair statement
5 about what an adjustable rate is?

6 Q Have you personally had any involvement in a
7 modification of a loan for yourself?

8 A -- have I personally ever --

9 Q For yourself. Have you ever obtained a loan?

10 A Sure.

11 Q Have you ever personally -- for the loan that
12 you obtained, have you ever attempted to obtain a
13 modification?

14 MS. STROMEYER: Objection. Relevance.

15 THE WITNESS: I don't know if I've obtained a
16 modification.

17 BY MR. BUELL:

18 Q Have you ever had need to negotiate for a
19 modification?

20 MS. STROMEYER: For himself?

21 MR. BUELL: Yes.

22 THE WITNESS: I don't know. I don't think
23 so.

24 BY MR. BUELL:

25 Q Okay. The next sort of line of questioning I

1 want to hit is it appears from your complaint that --
2 and some of the documents that have been produced in
3 the case -- that you began representing Ms. Halloran
4 sometime around August of 2010.

5 Is that a fair statement?

6 MS. STROMEYER: I'm going to object to the
7 characterization of your complaint. It's Ms. Halloran
8 and Mr. Ward's complaint. They are parties to this
9 action.

10 MR. BUELL: Sure. I'll be more specific.

11 Q Pursuant to the complaints made filed in this
12 action, there's a statement made in there -- or it
13 appears from that complaint, along with some of the
14 documents that have been produced in this action, that
15 your representation of Ms. Halloran and Mr. Ward began
16 sometime in August of 2010.

17 Would you say that's accurate?

18 A If that's what the documents demonstrate.

19 Q When did you begin your -- when do you
20 believe you began representing Ms. Halloran?

21 A I don't have a specific recollection.

22 Q What about Mr. Ward?

23 A I don't have a specific recollection. But
24 the representation would have been contemporaneous
25 since they're husband and wife.

1 Q Do you have a retainer agreement with
2 Mr. Ward?

3 A I have the retainer agreement with the Ward
4 Halloran group, yes.

5 Q Do you have -- have you produced a copy of
6 that retainer agreement?

7 A No. As a lawyer, you have the responsibility
8 to maintain your client confidence to some degree under
9 the Business and Professions Code and the Rules of
10 Professional Conduct.

11 Q Do you know the date that you entered into
12 that retainer agreement?

13 A I don't off the top of my head, no.

14 MR. BUELL: I'm going to state for the record
15 that there is a chance that we may be seeking to move
16 to compel production of that agreement as it may
17 pertain to issues specific to the case.

18 THE WITNESS: Good luck.

19 MS. STROMEYER: I would also, for the record,
20 state that I don't believe it's been requested in any
21 facet so far in this litigation. So we honestly
22 have --

23 MR. BUELL: That's fair.

24 Q Turning to -- so, currently, just so I'm
25 clear, you currently are attorney of record for both

1 Ms. Halloran and Mr. Ward; is that correct?

2 A The record speaks for itself.

3 Q I will assume that the answer to that then is
4 in affirmative then?

5 A If I filed a lawsuit on behalf of two
6 parties, and I'm the attorney of record, then the
7 activity of filing a lawsuit speaks for itself.

8 Q Okay.

9 A I have not substituted out of the case.

10 Q And you do not know, as you sit here today,
11 what day you were retained by them?

12 MS. STROMEYER: That's been asked and
13 answered.

14 THE WITNESS: I don't have the specific
15 recollection of a specific date, no.

16 BY MR. BUELL:

17 Q Would you state that -- does August of 2010
18 sounds like a reasonable date that your representation
19 began?

20 A I couldn't tell you off the top of my head.

21 Q August 2011? Just trying to get a general
22 range of when you began --

23 A I think that, fairly early on in my
24 representation, I made phone calls to GMAC. And that
25 would be certainly within the time frame. And I don't

1 know if that was August of 2010, July of 2010 or
2 September of 2010. But obviously, suffice it to say
3 I'm here, and I'm representing these people.

4 Q Was the first action that you recall taking
5 with regards to representation of Ms. Halloran and
6 Mr. Ward to contact GMAC with regards to a loan
7 modification?

8 MS. STROMEYER: I'm going to object to the
9 extent that they may call for attorney-client
10 communications or work product communications.

11 If you're talking only about his external
12 communications with GMAC, I'll allow him to answer.

13 THE WITNESS: I'm sure that very early on, I
14 made contact with GMAC.

15 MR. BUELL: And with regards to your
16 objection, as I believe was stated in Monday's
17 deposition, but we'll state it again here.

18 We believe there's a chance that we will
19 likely challenge the attorney-client privilege with
20 regards to that and seek further information with
21 regards to those communications between you and your
22 client.

23 If you don't mind, I would like to sort of
24 raise that with you now. I think we can probably
25 circumvent a lot of time going forward if we address

1 that now if you're comfortable.

2 For the record, I would like to state that I
3 do believe that the basis for our request is that the
4 attorney-client privilege can be waived -- there is
5 case law supporting it -- on grounds that the party
6 claiming the privilege has placed the privileged
7 communications directly at issue and disclosures
8 essential for fair adjudication of the matter. We do
9 believe there's case law supporting this, and we will
10 likely bring a motion to compel.

11 I assume your objection will maintain?

12 MS. STROMEYER: For now, yes, the objection
13 is maintaining. I would also state that that's an
14 incredibly broad statement of case law. And I think,
15 applicable to specific communications at issue here,
16 some may or may not be covered arguably by what you're
17 presenting.

18 But, generally, that's not going to waive
19 every single privileged communication. And certainly
20 asking what the first thing that he did with
21 representation to his clients, that's not at issue in
22 this case. So the objections are going to stand for
23 now.

24 MR. BUELL: Can we go off record for one
25 second.

1 (Short Break Taken.)

2 MR. BUELL: Counsel had a conversation off
3 the record regarding the objection raised with regards
4 to the attorney-client privilege.

5 The parties have agreed that they will
6 maintain a general objection to any communications
7 between attorney and client under the premise of the
8 attorney-client privilege.

9 As a result, we will forego questioning today
10 with regards to communications between attorney and
11 client and reserve our right to continue questioning
12 should the Court compel further testimony on that
13 grounds.

14 Is that accurate?

15 MS. STROMEYER: Yes.

16 (Deposition Exhibit 18 was marked for
17 identification by the court reporter.)

18 BY MR. BUELL:

19 Q So let's move forward into the sort of direct
20 line of questioning here I had for you.

21 I've handed you what's been marked as
22 Exhibit 18.

23 Have you seen this document before?

24 A Yes.

25 Q Could you explain for the record what it is,

1 please.

2 A The document speaks for itself. But it's a
3 letter that was -- a requirement of GMAC before they
4 would let me speak to them about the transaction and
5 the loan.

6 Q Does this refresh your recollection in any
7 way about when your representation of Mr. Ward and
8 Ms. Halloran began?

9 A No.

10 Q Is it your understanding that this letter was
11 the requirement of GMAC to allow you to have any
12 discussions with them in regards to the loan?

13 A Correct.

14 Q And are you aware if there were any
15 additional pages to this document?

16 A I do not know.

17 Q Last question on that document, actually.

18 Do you recall as you sit here today if there
19 were any prior communications with GMAC prior to that
20 letter being drafted and sent.

21 MS. STROMEYER: Related to this property and
22 loan?

23 MR. BUELL: Correct.

24 THE WITNESS: Yes. I know that there were
25 earlier communications.

1 BY MR. BUELL:

2 Q Do you recall what any of those were?

3 A That they would not speak to me as attorney
4 until such time as I identified that I was authorized
5 to do so.

6 Q Do you have any idea as you sit here today
7 when those communications took place?

8 A No.

9 Q Was the purpose for your communication to
10 GMAC -- prior to this letter when they instructed you
11 that they couldn't discuss the loan with you since you
12 lacked authorization, was the purpose of those calls to
13 discuss the loan of Bernie Ward?

14 A I'm sorry, the purpose of my communicating
15 with them?

16 Q Correct.

17 A Yeah. I was their attorney, and I was
18 representing them. And GMAC told me that they would be
19 happy to speak with me, but they needed verification of
20 that fact.

21 Q But the purpose of your contact with GMAC was
22 to discuss the account -- the loan of Bernie Ward?

23 A That is correct, yes.

24 Q Do you recall when your next communication
25 with GMAC was following this letter that's been marked

1 as Exhibit 18?

2 A No.

3 Q Do you recall if you had further phone
4 conversations with them regarding that authorization?

5 A Don't know.

6 Q And do you recall if you ever got either
7 written or verbal communication that this was
8 sufficient for you to work on the account?

9 MS. STROMEYER: Objection. Calls for
10 speculation. They started communicating with him, so
11 presumably, they accepted it.

12 MR. BUELL: Just if you don't mind, if we
13 could have testimony from the witness.

14 THE WITNESS: I had multiple conversations
15 with them.

16 BY MR. BUELL:

17 Q Following this letter?

18 A On the substance of the communications
19 concerning the loan, yes.

20 MR. BUELL: Let's have this marked.

21 (Deposition Exhibit 19 was marked for
22 identification by the court reporter.)

23 BY MR. BUELL:

24 Q I've handed you a document that's been marked
25 Exhibit 19.

1 Could you please tell us what this document
2 is.

3 A The document speaks for itself. But the
4 cover page of this document with a Bates stamp WARD
5 00020 through 000035 is a August 24th, 2010 cover
6 letter to the Loss Mitigation Department of GMAC in
7 Horsham, Pennsylvania.

8 Q Is the letter from you?

9 A Yes.

10 Q Do you recall drafting or preparing this
11 letter?

12 A No.

13 Q Do you recall the purpose of this
14 communication?

15 A Not independent of what the document says.

16 Q Do you recall any prior conversations -- so
17 by prior, I mean before August 24th, 2010, the date on
18 this document Exhibit 19.

19 Do you recall any prior communications with
20 GMAC regarding the subject of this?

21 A Specifically, no.

22 Q Do you have any notes in your possession or
23 in your file regarding communications with GMAC?

24 A You mean handwritten notes that I took?

25 Q Correct.

1 A I don't know.

2 Q And just to clarify, if you did, you have not
3 produced those today; is that correct?

4 A If I had handwritten notes of my work
5 product, I would not produce it today, that's correct.

6 If I had any written communications from
7 GMAC, I would have produced that because it would have
8 been responsive and not privileged.

9 But whatever I -- whatever I produced here,
10 which is this exhibit, was as a result of discussions
11 with GMAC concerning what needed to be done in order to
12 begin the process of negotiations of the loan
13 modification.

14 Q Did you review anything in preparation for
15 today's deposition?

16 A The Examiner sports section this morning.

17 Q So you did not review your files or anything
18 else in preparation for today's deposition?

19 A I answered completely in the previous
20 question what I reviewed before today's deposition.

21 Q And that's not just today.

22 So in every day since the deposition was
23 noticed, the only thing you've -- you've reviewed in
24 preparation of today's deposition is the sports section
25 of the Examiner?

1 A The deposition notice that I received was
2 January 12th and mailed January 12th. And since
3 January 12th, I have not reviewed anything for the
4 preparation for this deposition, no.

5 Q Okay. If you would turn, please, in
6 Exhibit 19, to what's Bates marked WARD 00034, the last
7 two pages of the exhibit.

8 Have you seen this document before?

9 A Yes.

10 Q For the record, could you read what the title
11 of the document is, please.

12 A General Power of Attorney.

13 Q What is your understanding as to what this
14 General Power of Attorney provides?

15 MS. STROMEYER: Objection. The document
16 speaks --

17 THE WITNESS: I don't have a general
18 understanding of what it provides. I just stated what
19 it was for.

20 BY MR. BUELL:

21 Q Could you please state what it's for, then?

22 A To confirm that Bernard Ward's wife, Colleen
23 Halloran, had the Power of Attorney to negotiate for
24 the family on the loan modification.

25 Q Do you know why this was provided as an

1 attachment to your cover letter of August 24th, 2010?

2 A I know it was asked for by somebody. Some
3 first name at GMAC because the GMAC people don't give
4 you their last names. They refuse to do that. I don't
5 know if you're aware of that or not.

6 Q So that document was produced at the request
7 of GMAC?

8 A As I just answered.

9 Q Do you recall a phone conversation on
10 August 25th that you placed to GMAC with regards to
11 following up this letter marked as Exhibit 19?

12 A I don't have a specific recollection.

13 Q Do you think that you would have any notes in
14 your file with regards to such a phone call?

15 A I don't know.

16 Q Do you -- as a normal course of your
17 practice, do you keep logs of each phone call that you
18 make?

19 A No.

20 Q Do you keep notes as to each phone call that
21 you make?

22 A No.

23 Q Informal or formal?

24 A I may keep notes. But if it's an important
25 discussion I've had, I often follow up with a letter

1 confirming it.

2 Q And do you have a computer system or any
3 other form that tracks or monitors phone calls that you
4 have made out --

5 A No.

6 Q -- as part of your practice?

7 A No. No, we do not have that kind of a
8 computer system.

9 Q Similarly with messages that were left for
10 you from an outside third party, would you have any
11 system of tracking or maintaining records of those
12 messages being left for you?

13 A If somebody leaves me a voice mail message, I
14 don't routinely keep a voice mail message.

15 Q Is there a practice at your firm of leaving a
16 paper notation message if somebody else receives a
17 message?

18 A There is such a practice. It is extremely
19 rare in the field today to have a written message from
20 a receptionist.

21 Q I don't disagree. Just trying to cover the
22 bases here.

23 So what I'm getting at here, the purpose of
24 this line of questioning, if there was a phone call
25 made to you or a message was left in August of 2010, I

1 don't anticipate that you would specifically recall
2 somebody leaving you a message then.

3 And all I'm trying to get at is, is there any
4 documentation, electronic record, et cetera, that's
5 kept in the normal course of your practice that might
6 reflect that message being left to you?

7 A I wouldn't -- I don't have -- we don't have a
8 system that would normally retain that. And I don't
9 recall that I saved any voice messages, if any, from
10 any GMAC agent.

11 Q Okay.

12 A Yeah.

13 Q Thank you. That clarifies what I was looking
14 for.

15 A Yeah.

16 Q Do you recall placing a call to GMAC on
17 August 30th of 2010 with regards to missing documents
18 or the foreclosure proceedings that had been started
19 against your client?

20 A Not specifically, no.

21 Q Do you recall receiving a call from GMAC with
22 regards to the status of the foreclosure sale on or
23 around August 30th of 2010?

24 A Not specifically, no.

25 Q Do you recall a phone call you placed to GMAC

1 on September 8th regarding additional information that
2 was requested for the financial package that you
3 submitted?

4 To clarify, financial package you submitted,
5 I mean Exhibit 19.

6 A I have a general recollection of submitting
7 some additional documents as was requested by the
8 lender.

9 Q So you have a general recollection of sort of
10 back and forth phone calls with GMAC about, hey, we
11 need some additional documentation? We received your
12 package, but we need some more stuff, and there was
13 some back and forth on that grounds?

14 A I don't know if I would describe it as back
15 and forth. The general practice with GMAC was, absent
16 you phoning them, you received no information back.

17 And absent you reminding them on several
18 occasions that the borrower, their client, was
19 represented by counsel, they would attempt to
20 oftentimes communicate with a represented party.

21 But I do know that there were some
22 discussions about some additional documents that needed
23 to be given to me them. And we did that, I believe.

24 Q In regards to this case, do you specifically
25 recall informing GMAC that -- let me back up.

1 In regards to this action, do you -- or this
2 file, Bernard Ward's loan, do you recall ever
3 specifically having a conversation with GMAC about them
4 directly contacting your clients?

5 A Yes. And I told them to please provide me
6 with every document or bit of information that they
7 felt was necessary.

8 Q Do you recall offhand when that occurred?

9 A In the very beginning. And it was reiterated
10 probably every time I found out that they weren't
11 complying with it.

12 Q So based on your response, I'm understanding
13 that there were multiple instances where they
14 communicated directly with your clients and not with
15 you after your representation?

16 A There were certainly circumstances in which
17 they did not communicate with me but did with my
18 clients. Those communications exclusively would have
19 been in writing. Not via -- in other words, the only
20 communication that GMAC did which I believe to be
21 contrary to what my request was was they would continue
22 to write letters to my client rather than send them to
23 me.

24 Q Okay. And just to close the loop on that,
25 are you aware of any -- after your representation

1 began -- so let's just call your representation
2 beginning for clarification purposes, what was that --
3 was it August 11th --

4 A Why don't we just say after my representation
5 began, and that makes it easier.

6 Q And we understand collectively, by that I
7 mean the date that you mailed this authorization
8 letter, we'll call it August 11th, 2010.

9 Are you aware of any instances after your
10 representation began of GMAC calling -- phone
11 calling -- your clients directly as opposed to calling
12 you?

13 A Might be. But I don't -- I'm not sure who
14 the entity was that was calling.

15 Q Okay. But your recollection is more -- and
16 not a hundred percent -- but more that their practice,
17 if they did not communicate directly with you, was to
18 communicate by way of written communication rather than
19 verbal on the phone directly to your clients?

20 A That would be correct.

21 Q Okay. So I think we were at -- are we on
22 September 8th phone call, I believe.

23 Yeah, I believe we were on the September 8th
24 phone call?

25 MR. BUELL: So the next document I would like

1 to mark is going to be 20.

2 (Deposition Exhibit 20 was marked for
3 identification by the court reporter.)

4 BY MR. BUELL:

5 Q So I've presented you with what's been marked
6 as Exhibit 20.

7 A Sure.

8 Q Could you state for the record what your
9 understanding of this document is.

10 A It's a two-page letter Bates stamped WARD
11 000087 and 000088. And it's a September 9th, 2010
12 letter to Loss Mitigation from me on the Ward loan.

13 Q Does this letter convey a settlement offer --

14 A Yes.

15 Q -- from your clients?

16 A Yes, it does.

17 Q Could you please state for the record what
18 that settlement offer was.

19 MS. STROMEYER: The document speaks for
20 itself.

21 BY MR. BUELL:

22 Q If you wouldn't mind reading it into the
23 record, please.

24 A In order to avoid any further issues or
25 potential litigation, my client is prepared to offer

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1 the following terms for resolution of this matter:

2 The total outstanding reinstatement balance
3 of 31,033.93 as of September 1st, 2010, according to
4 your company. My client will immediately pay \$6,800 of
5 that sum, leaving a balance of \$24,233.93.

6 My client will continue to make monthly
7 payments of \$3,400, which includes an impound for taxes
8 and insurance.

9 My client will make an additional payment of
10 \$403 per month over five years to pay off the current
11 arrearages of the sum. The totally -- sic -- totally
12 monthly payments beginning in October will be
13 \$3,808.90.

14 Q Do you recall ever getting a response to that
15 offer?

16 MS. STROMEYER: Hold on. Could you please
17 clarify --

18 BY MR. BUELL:

19 Q From GMAC.

20 A I did not get a response to this offer.

21 Q Do you ever recall having a conversation with
22 GMAC with regards to this offer?

23 A Sure.

24 Q Do you remember the contents of that
25 discussion?

1 A The minion who I spoke to said that that was
2 in the special Loss Mitigation Department loan review
3 process, and they would determine what the terms of the
4 proposal would be.

5 Q But you don't remember any further
6 communications with regards to that settlement offer,
7 no counteroffer, no further discussions to the terms
8 or --

9 A No. What I understood was there was a
10 department -- apparently in Horsham, Pennsylvania --
11 which was going to be my contact on that.

12 Q The letter also reflects or states that
13 there's some additional documents which demonstrate
14 that Mr. Ward will be eligible for a pension.

15 Do you recall if those were provided pursuant
16 to request from GMAC?

17 A I know the documents were provided.

18 Q Do you know if you provided that information
19 based on a request from GMAC?

20 A I don't know if it was they needed
21 verification; I was prepared to give them verification.
22 But in any event, whatever I gave them satisfied their
23 inquiry as to the likelihood of that money coming in
24 for purposes of the modification.

25 Q Just to clarify, you said they were satisfied

1 based on what was produced along with this letter?

2 MS. STROMEYER: Objection --

3 THE WITNESS: No. I think what I said --
4 just to clarify the record, whatever it was that was
5 produced eventually satisfied their requirements
6 because they modified the loan.

7 Q Do you recall what your next communication
8 was --

9 A No.

10 Q -- with GMAC following this letter?

11 Do you recall at the time that you sent this
12 letter what the status of the foreclosure sale was?

13 A No.

14 Q Do you recall if GMAC -- whoever you were
15 having communications with at GMAC during this time,
16 September of 2010 -- discussed with you the correlation
17 between the modification process and the sale date?

18 Let me rephrase that question. Do you recall
19 any communications with GMAC during this time,
20 September of 2010, around the time of this letter,
21 regarding the modification review and its impact on the
22 pending foreclosure sale?

23 MS. STROMEYER: Objection. Assumes facts not
24 in evidence. Calls for speculation. Lacks foundation.

25 THE WITNESS: I believe that the system that

1 they had in place was that the computer screen, which
2 was telling this person who was talking to me what to
3 do, would describe when the foreclosure date was going
4 to be continued to pending their discussion.

5 BY MR. BUELL:

6 Q In the course of your communications with
7 GMAC, did you frequently discuss the sale date.

8 A I don't know if I frequently discussed it.
9 Generally speaking, the custom and practice of your
10 client was that you would have to call them to
11 ascertain what the status of the sale date was.

12 They would never call me back to let me know
13 if it was being changed or it was staying. That was
14 their business practice.

15 Q Do you recall any conversations with GMAC
16 regarding your concerns with the foreclosure process?

17 A No one with any authority to discuss any such
18 activity -- even though I suggested that they send it
19 to corporate counsel -- would discuss that matter with
20 me.

21 You basically had an individual that was
22 reading a computer screen. That was my impression of
23 what was going on.

24 Q So you had communications beyond these last
25 four, five paragraphs that are contained in your letter

1 dated September 9th, 2010?

2 MS. STROMEYER: Vague and ambiguous. At some
3 point in time, he had communications.

4 MR. BUELL: Let me tailor that question down
5 a little bit.

6 Q Did you have communications with GMAC
7 regarding the foreclosure process and your concerns
8 about the foreclosure process in September of 2010
9 beyond this letter?

10 A You mean did I --

11 MS. STROMEYER: I'm also going to say vague
12 and ambiguous as to concerns and what that means.

13 But go ahead.

14 THE WITNESS: The letter I wrote was my
15 putting in writing what my concerns were. Subsequent
16 to that, I don't know if I had an oral discussion with
17 somebody on the violation.

18 But based on my discussions with the
19 individual who you call on the 1-800, you know, got
20 foreclosure line from GMAC, they weren't authorized to
21 disclose anything of that nature.

22 Which is why I asked them to please send it
23 up to their litigation department. Because everybody
24 was aware of what was going on with the Federal Reserve
25 and the practices in question.

1 Q Do you recall any conversations with GMAC
2 between September 1st of 2010 and November 1st of 2010
3 specifically?

4 A Specifically --

5 Q With regards to the Bernard Ward loan.

6 A You know what, if you focus your questions,
7 I'm sure I might be able to help you out, but that's
8 overbroad.

9 Q Do you recall speaking with GMAC on
10 September 13th, 2010 with regards to foreclosure fees
11 and request -- do you recall requesting to speak with
12 the supervisor with regards to foreclosure fees?

13 A I may well have.

14 Q And just to clarify the record, the prior
15 question, you shook your head. I assume that was a --
16 no was your answer?

17 MS. STROMEYER: Will you read the question
18 back so he can be sure what he said.

19 (Record Read.)

20 BY MR. BUELL:

21 Q Do you recall speaking with GMAC in
22 mid-September of 2010 regarding missing financial
23 information that was required to complete the
24 modification review?

25 MS. STROMEYER: And can we just have like a

1 standing agreement that all these pertain to the Ward
2 loan, just to --

3 MR. BUELL: Yes.

4 MS. STROMEYER: Because otherwise I'm going
5 to keep --

6 MR. BUELL: Fair enough.

7 THE WITNESS: I don't have a specific
8 recollection right now on that.

9 BY MR. BUELL:

10 Q Do you recall as you sit here today if you
11 had any written communications with GMAC between your
12 September 9th letter, which was marked as Exhibit 20,
13 and November 1st of 2010?

14 A I don't know off the top of my head.

15 Q If they were, would you have produced them as
16 part of your production today?

17 A If they were to GMAC, I would have produced
18 them, sure.

19 Q To clarify, my question is if there were
20 communications to GMAC.

21 A If there were communications to GMAC and I
22 wrote them, we would have produced them.

23 MR. BUELL: Let's go ahead and mark 21.

24 (Deposition Exhibit 21 was marked for
25 identification by the court reporter.)

1 BY MR. BUELL:

2 Q Please state for the record what Exhibit 21
3 is.

4 A This is WARD 000070 through 000073.
5 November 10th, 2010 letter to Loss Mitigation, Horsham,
6 Pennsylvania enclosing payroll and pension benefit
7 deposits.

8 Q And was this letter sent by you?

9 A Yes.

10 Q Do you recall sending or drafting this
11 letter?

12 A I don't have a specific recollection of it,
13 but I did send it.

14 Q Do you recall if this letter was prepared and
15 sent pursuant to a conversation you had with GMAC
16 requesting information contained herein?

17 A I don't have a specific recollection of the
18 conversation. But I only would have sent this if GMAC
19 had requested further documentation for purposes of the
20 negotiations.

21 Q Is the reason for your statement now sort of
22 what you said earlier at the beginning of today's
23 deposition, that it's your practice, your customary
24 practice, to follow up a phone conversation with a
25 letter? An important -- I think as you put it -- an

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1 important conversation with a letter?

2 A Well, I don't know -- I would think generally
3 speaking, my practice is if I'm going to confirm
4 something that I believe is material, that I would
5 follow up.

6 And, in this instance, if someone has --
7 that's why I prefaced my last answer with I probably
8 only would have sent this as the result of a request
9 from somebody to provide it.

10 And since the preamble to this letter is
11 pursuant to our negotiations, that infers that we were
12 discussing the subject matter, and therefore, that's
13 why I sent this on November 10th, 2010.

14 Q Thank you for clarifying that.

15 MR. BUELL: Let's go ahead and mark 22.

16 (Deposition Exhibit 22 was marked for
17 identification by the court reporter.)

18 BY MR. BUELL:

19 Q You've been handed what's been marked
20 Exhibit 22.

21 Could you please state for the record what
22 you understand this document to be.

23 A Well, the first page of this document is
24 Bates stamped 00017, and it's a November 16th, 2010
25 letter from me to sir or madam because they wouldn't

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1 give me their name.

2 Per your request, enclosed please find the
3 letter from the non-borrowing spouse, who will be
4 making payments on the mortgage and bank depositions of
5 the pension for Mr. Ward. That's the first page of
6 Exhibit 22.

7 MR. BUELL: Can we go off the record for one
8 second.

9 (Short discussion off the record.)

10 MR. BUELL: To clarify, we have amended
11 Exhibit 22 to be the production that was produced by
12 Mr. Halloran today pursuant to the Notice of Amended
13 Deposition, as the copy that I brought with me today
14 did not have the cover letter on it.

15 Therefore, Exhibit 22 will be Bates stamps
16 00017 through 00021. This is the document that he has
17 been looking at, except for the attachments, which are
18 pages 00018 through 00021. And we will refer to this
19 as Exhibit 22 from here forward.

20 Q Do you recall sending or preparing this
21 letter?

22 A No.

23 Q Based on the signature, is this a letter that
24 you believe you sent?

25 MS. STROMEYER: Just for the record, by sent,

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1 you mean prepared? He probably caused it to be sent --
2 BY MR. BUELL:

3 Q Prepared, caused it to be sent.

4 A Yeah. I'm relatively sure I produced it to
5 GMAC. It was in documents they produced to me.

6 Q Was this letter prepared in response to a
7 conversation that you had with GMAC?

8 A I have no independent recollection of that.

9 Q Was the information -- well, let's backtrack.
10 The document states that, enclosed is a
11 letter from the non-borrowing spouse who will be making
12 payments on the mortgage and bank deposits of the
13 pension for Mr. Ward.

14 Do you recall being requested by GMAC to
15 provide this information?

16 A I have no independent recollection.

17 Q But you do recall providing it? Excuse me, I
18 take it back. You did not testify that you recall
19 providing it.

20 You do believe that this is a letter that you
21 prepared and had sent to GMAC?

22 A Sure.

23 Q Okay. Do you recall any conversations with
24 GMAC in November of 2010 regarding the status of the
25 modification and postponement or request to postpone

1 the foreclosure sale date?

2 A Not specifically, no.

3 Q Do you recall any conversations in December
4 of 2010 with regards to postponing the sale date?

5 A I have no specific recollection of
6 discussions on that subject matter right now.

7 Q Do you recall any discussions with GMAC in --
8 let's broaden it a little bit -- from November through
9 December of 2010 -- regarding a trial payment plan for
10 Mr. Ward or Ms. Halloran?

11 A I know that there were discussions on the
12 subject matter, and the proposal was submitted by GMAC,
13 which my client complied with.

14 Q Do you recall what those terms were?

15 A Not off the top of my head, no.

16 Q Do you recall having any negotiation with
17 them?

18 And I'll define what I mean by negotiation.
19 Any back and forth discussions with regards to the
20 terms of that payment plan.

21 A It was a take-it-or-leave-it proposal.

22 Q Do you recall if you requested a trial
23 payment plan at any time? We'll say prior to
24 January 1st of 2011.

25 A No. My recollection of the circumstances was

1 that GMAC's Loss Mitigation special unit from Horsham,
2 Pennsylvania were suggesting this trial payment plan as
3 part of what their criteria is, which was an actual
4 business model that GMAC and some other major banks
5 had, as well, to get some monthly mortgage payments
6 from people who were nonperforming assets to boost
7 revenue and then were actually -- subsequently charged
8 by the Federal Reserve Bank with violating the honor
9 and spirit of the loan that the national government
10 gave them by not following through and honoring the
11 modification programs. That's what I remember.

12 Q Do you remember those specific conversations
13 with them?

14 A That's not conversation with them --

15 MS. STROMEYER: That misstates his testimony.
16 That's not what he said.

17 BY MR. BUELL:

18 Q Do you remember having a specific
19 conversation with GMAC about those issues?

20 A Not from the low-level person who was
21 providing me information about what GMAC's program was,
22 no.

23 Q Do you recall having those conversations with
24 anyone who was not, as you put it, a low-level
25 employee?

1 MS. STROMEYER: Objection. He said he was
2 aware of certain things going on; he didn't say that he
3 had conversations with anyone regarding specifically
4 those issues.

5 BY MR. BUELL:

6 Q You can go ahead and answer my question.

7 A No.

8 Q No, you do not recall any discussions?

9 A Why don't you read the question back and my
10 answer.

11 Q That's fair enough. I'll move forward with
12 that.

13 Do you recall how many different employees at
14 GMAC you believe you spoke with?

15 MS. STROMEYER: At any point in time?

16 MR. BUELL: Yes.

17 THE WITNESS: Well, having been in your seat
18 a couple of times, I cannot give you a precise number,
19 but I will try and estimate.

20 More than five and less than 50.

21 BY MR. BUELL:

22 Q Are there particular names that stand out to
23 you as people you communicated with more than others?

24 A Not really. And, you know, I know there was
25 a telephone log that GMAC had which identified, by

1 number, the people.

2 But I don't have a recollection -- they would
3 not give their last names. And sometimes they didn't
4 identify their name at all, in fact.

5 Q And the telephone log you mentioned, I assume
6 that's something that you've reviewed as your role as
7 attorney in this action?

8 A Yes, absolutely. And your PMK, your person
9 most knowledgeable, couldn't identify by number the
10 people, even though that was part of his requested
11 knowledge of that subject matter. So we'll get it -- I
12 mean, we know who they are. Eventually, we'll get it.

13 Q But your testimony today -- as witness not as
14 attorney representing the case -- is you do not
15 specifically recall the names of any individuals that
16 you spoke with at GMAC?

17 A Not the names right now, no.

18 Q All right. Let's --

19 A But, to aid you, it may well have been that,
20 at some point, when I did establish some kind of
21 rapport with one individual, I may have actually put
22 their first name on a letter at some point in time. I
23 don't know when.

24 Q And sitting here right now, without looking
25 at the letter, that name doesn't jump out at you?

1 A No, it doesn't.

2 Q Fair enough.

3 Do you -- did you have any communications --
4 let me ask it a different way.

5 Were your communications with GMAC in
6 writing? Just walk through each of them.

7 Did you communicate with GMAC in writing at
8 any time during the scope of this, August of 2010
9 through, let's say, today?

10 A Sure, we've established that.

11 Q Did you have communications orally on the
12 telephone?

13 A Yes, we've established that.

14 Q Did you have any face-to-face or
15 person-to-person meetings with GMAC?

16 A No. Didn't have a chance to get to Horsham,
17 Pennsylvania, sorry.

18 Q Was there any other form of communication you
19 had with GMAC?

20 A They would not communicate in any other
21 fashion.

22 Q Did you send -- and I'm sorry, I used the
23 term written communication, that's somewhat broad.
24 Obviously, we've established that you sent letters.

25 Did you also have a course to send faxes to

1 GMAC?

2 A I'm sure I sent faxes to get the documents
3 appropriately. They gave me a fax number.

4 Q E-mail, as well?

5 A Never.

6 Q Never e-mailed?

7 A Never. Wouldn't give me an e-mail for that
8 purpose. Only fax.

9 Q So, just so I'm hearing you correctly, had
10 you been given the opportunity to send e-mail, you
11 probably would have sent e-mails, you just were never
12 given an e-mail address to send to?

13 A That's correct.

14 Q Which makes it kind of hard to send an e-mail
15 if you don't have an address.

16 A Yes, it does.

17 Q All right. When you provided documentation
18 that was required or requested by GMAC for the purposes
19 of reviewing your clients for modification, were those
20 then provided by mail letter, or did you provide them
21 by way of fax?

22 A The mode of transportation of the information
23 was both.

24 Q And when you -- when you provided those by
25 mail, was it sent to an address that you were provided

1 by whoever you had been speaking with at GMAC that
2 requested that information?

3 A That's correct.

4 Q Same thing with regards to fax.

5 Would you fax to a number that the person you
6 had been communicating with at GMAC specifically
7 provided to you?

8 A Correct.

9 Q Was there any -- ever an instance that you
10 recall during your communications with GMAC where they
11 said they had not received something that you had sent
12 to them?

13 A That may well have happened.

14 Q But nothing -- you don't recall a specific
15 instance of that?

16 A It may well have happened, and then we resent
17 it, yeah.

18 Q Okay, fair enough.

19 Let's move forward to January of 2011. Do
20 you recall a conversation with GMAC on January 6 with
21 regards to additional documents required for
22 modification specifically regarding this trial payment
23 plan?

24 A I may well have, I don't know.

25 Q Do you recall specifically any conversations

1 you had with GMAC in January of 2011?

2 A Not particularly.

3 Although, I would like to correct the record.

4 At one point, I was given the

5 FinancialPackage@GMACmortgage.com e-mail to send some
6 documents.

7 So maybe, at some point, someone did give me
8 that information. But that's not an individual.

9 Q What document are you looking at?

10 A Exhibit 21.

11 Q Okay. And I see on the top it says by fax
12 and e-mail; is that correct?

13 A Yes. So I correct that. I must have
14 communicated with the company, at least, with this
15 general financial package; although, I don't think that
16 that's an individual's name, which would be
17 customary --

18 Q And it looks, too, as though you also sent
19 that letter by fax.

20 A Yeah.

21 So anyway, yeah, trial modification plan
22 January, yeah. I mean, I know we had discussions about
23 them. I don't know what they were.

24 Q And you don't recall specifics about any of
25 those communications --

1 A No.

2 Q -- as you sit here today?

3 A No. I do remember the gentleman who gave me
4 the information when I spoke to him about it was
5 pleased to announce that, that there was a trial
6 modification.

7 Q In January --

8 A Whenever it was.

9 Q -- 2011?

10 As you sit here today, do you know if you
11 have any specific notes that you have taken with
12 regards to conversations on the trial plan with GMAC?

13 A I don't.

14 MR. BUELL: Let's go ahead and mark next 23.

15 (Deposition Exhibit 23 was marked for
16 identification by the court reporter.)

17 BY MR. BUELL:

18 Q You've been handed what's been marked
19 Exhibit 23.

20 Would you please state for the record what
21 you believe this document to be.

22 A This was a WARD 000085 letter of January 7th,
23 2011 sent by facsimile to GMAC mortgage.

24 Q Is the letter from you?

25 A It is.

1 Q Do you recall preparing or sending this
2 letter to GMAC?

3 A I -- I know I prepared the letter and sent it
4 to Mike.

5 Q Do you recall any conversations with Mike
6 with regards to the substance of this letter?

7 A I believe that Mike wanted to get
8 confirmation that the -- what the status was of the
9 cancer expense treatments for the Wards' son who had
10 the Hodgkin's lymphoma.

11 Q Do you recall speaking with a Mike now that
12 you see the name?

13 A I know I spoke to a gentleman. That must
14 have been his name. That's why I sent him this
15 information.

16 Q As you sit here, now that you see the name
17 Mike, do you recall speaking with Mike on more than one
18 occasion?

19 A I may well have. I know at one point in
20 time -- and I think this was probably consistent with
21 impressions from the Federal Reserve -- GMAC was trying
22 to get one person sort of on these documents.

23 So I don't know. But I think I had more than
24 one conversation with Mike.

25 Q And the substance of this letter is

1 additional information regarding the treatment of
2 Ms. Ward's son, as you mentioned for lymphoma; is that
3 correct.

4 A Right, yeah. As you may recall, that was --
5 unfortunately, for this family, some very bad things
6 happened, and one of their children had cancer.

7 And so what GMAC wanted to know is, well, if
8 it's really expensive, they won't be able to make our
9 mortgage payments.

10 So we were trying to tell them that the
11 lymphoma was in remission, and that the expenses
12 weren't going to be such that GMAC wouldn't get its
13 money.

14 MR. BUELL: Let's move on to the next
15 document.

16 (Deposition Exhibit 24 was marked for
17 identification by the court reporter.)

18 BY MR. BUELL:

19 Q You've been handed what's been marked
20 Exhibit 24. As you can see from the bottom right-hand
21 corner, it has a marking of Exhibit 1. The Exhibit 1
22 reference is the exhibit to the complaint that was
23 filed in this action.

24 Do you recall this document -- seeing this
25 document prior to today?

1 A I have. Although, I'm not sure the stamp
2 that says Exhibit 1 is something that I saw on the
3 document when I saw it.

4 I also note that there isn't any Bates stamp
5 number demonstrating that this was a GMAC document that
6 was produced by GMAC in response to request for
7 production of documents.

8 Q Have you reviewed this document -- have you
9 seen this document before?

10 A Well, I have received and reviewed in the
11 past a GMAC Mortgage document, which described itself
12 as a Trial Modification Agreement, yes.

13 Q Since this specific document does not have
14 the Bates stamp or the production from GMAC, would you
15 like to take a moment to review it to make sure it was
16 the document you reviewed in the past?

17 A I couldn't do it without comparing it to the
18 document I did review in the past or we produced
19 previously.

20 (Short discussion off the record.)

21 THE WITNESS: Exhibit 24, we've established,
22 now appears to be an accurate, representative copy of a
23 document, which was attached as an exhibit to my
24 complaint on behalf of my clients.

25

1 BY MR. BUELL:

2 Q Have you reviewed this document prior to
3 today?

4 A I did review it prior to today.

5 Q As you sit here right now, do you understand
6 the purpose of this document as it was presented to
7 your clients?

8 A I believe I understood what GMAC was
9 purporting to do with this, yes.

10 Q And what's your understanding as to what GMAC
11 was purporting to do with this?

12 A The representation of what they were
13 purporting to do is to demonstrate that the borrower
14 could make mortgage payments for three months sort of
15 as a trial to whether or not the permanent modification
16 would be made.

17 And that, upon the completion of the trial
18 period, that then the modification would become a
19 permanent modification.

20 Q Do you recall having a conversation with your
21 clients regarding this document? I'm not asking
22 about --

23 A Well, of course I would have discussed with
24 my clients any proposal that was provided by GMAC.

25 Q Do you specifically recall discussing this

1 trial payment plan with them?

2 A Well, in the course of my representation of
3 my clients, any material aspect of the case, my custom
4 and practice would be to discuss it with them, of
5 course.

6 Q I'll just ask it one more time. Maybe I'm
7 phrasing it not correctly.

8 But my question to you is, specifically this
9 document, do you specifically recall having a
10 communication or a discussion with your clients about
11 this document?

12 A Here is the difficulty with what -- I've run
13 across this a few times in my life.

14 When you ask an attorney whether or not he
15 had a discussion on the subject matter of a document,
16 right, by the question itself, it's asking for a
17 subjective communication with the client.

18 So I cannot answer that question without
19 divulging attorney-client privileged communication,
20 because the subject matter, which is the premise of
21 your question is included in the question.

22 So the easiest way for me to answer that
23 without invading that attorney-client privilege is to
24 state to you that it would have been my custom and
25 practice -- and I always communicate with my clients,

1 every material aspect of a transaction in which another
2 party has communicated to me for my client's benefit
3 terms of a proposed agreement, okay.

4 Q So just to clarify for my side of the record,
5 I understand that your direct response to my question
6 about a specific communication with your client --
7 whether you recall a specific conversation with your
8 client about this document is you're objecting on
9 grounds of attorney-client privilege. And, instead of
10 directly answering the question, you're providing a
11 more general response?

12 A I am generally answering a question, which is
13 responsive to your question's subject matter without
14 specifically affirming what communications I had with
15 respect to the subject matter, which itself is
16 attorney-client privileged.

17 Q Do you understand this document to be a
18 written contract? This document, to clarify, I mean
19 Exhibit 24.

20 A I don't have a present opinion about what
21 this is or isn't. Since I'm not here as an expert, I'm
22 not going to give you answers to that unless you start
23 paying me, which you can't because we're in conflict of
24 interest.

25 Q That would be a conflict, wouldn't it?

1 A It would.

2 Q If I turn to Page 3 of Exhibit 24, it's the
3 signature page for this document.

4 Could you please read for the record how it's
5 signed.

6 A Well, the document speaks for itself. And
7 how it's signed is, please sign and return this
8 agreement. And it says, Colleen M. Halloran, Power of
9 Attorney for Bernard Ward, 1/23.

10 Q Is it your understanding that the Power of
11 Attorney that she's referring to is the Power of
12 Attorney that is an attachment to an exhibit that we
13 discussed earlier, Exhibit 19?

14 A I don't know.

15 Q If you wouldn't mind pulling out Exhibit 19.

16 A In other words, you asked me whether or not I
17 understood --

18 MS. STROMEYER: Objection. The document
19 speaks for itself.

20 MR. BUELL: I understand.

21 THE WITNESS: I don't know.

22 BY MR. BUELL:

23 Q Do you recall reviewing the general Power of
24 Attorney in regards to the authority or ability of
25 Ms. Halloran to sign on behalf of Bernard Ward?

1 MS. STROMEYER: Attorney. May call for
2 attorney-client work product --

3 THE WITNESS: I don't know. I don't know if
4 I looked at it one way or the other. Certainly
5 estoppel in pais would make it irrelevant.

6 Q What is -- do you believe Exhibit 24 --

7 THE WITNESS: That's P-A-I-S, by the way,
8 estoppel in pais is P-A-I-S.

9 THE REPORTER: Thank you.

10 BY MR. BUELL:

11 Q Let me stop and rephrase this question. I'm
12 trying to phrase it without getting to the purpose of
13 your prior objection regarding communications with your
14 client.

15 If you take a look at Exhibit 24, does it
16 list out the original principle balance of the -- of
17 the loan?

18 A Don't know.

19 Q If you look at Paragraph 3 on Page 1 of
20 Exhibit 24, could you please review that paragraph.

21 A I'm sorry, which paragraph?

22 Q I'm sorry, it's not paragraph. It's itemized
23 Number 3.

24 A Okay, I see that.

25 Q It's actually the sixth paragraph.

1 A Okay.

2 Q Now that you read that, do you -- what do you
3 believe the original principle balance of the loan was
4 according to this document?

5 MS. STROMEYER: Objection. The document
6 speaks for itself. Mr. Halloran's understanding of the
7 principle balance is irrelevant.

8 THE WITNESS: I don't know. This is what the
9 document says.

10 BY MR. BUELL:

11 Q What is your understanding today as to what
12 the principle balance of the loan is?

13 A I don't have one.

14 Q Do you recall what your understanding as to
15 the principle balance of the loan at the time of this
16 letter in January of 2011 was?

17 A I don't have recollection of that.

18 Q Do you recall looking at the principle
19 balance as a term in your negotiations with GMAC?

20 A At what point in time?

21 Q Let's say January 2011.

22 A No. I think that that discussion was about
23 the trial loan modification.

24 Q Do you recall discussing -- as part of your
25 negotiations with GMAC, do you recall discussing the

1 principle balance at any point in time?

2 A I know I talked with them early on about what
3 the principle balance was, yeah. But I don't know off
4 the top of my head what that was.

5 Q Do you recall any discussions with regards to
6 reducing the principle balance?

7 A Discussions, no.

8 Q Do you recall any other communications
9 regarding or requests -- let's say that.

10 Do you recall making a request to GMAC for a
11 principle reduction?

12 MS. STROMEYER: At any point in time?

13 MR. BUELL: At any point in time.

14 THE WITNESS: Yes.

15 BY MR. BUELL:

16 Q Do you recall when that request was made?

17 A I don't.

18 Q If the request was made in writing -- was the
19 request made in writing?

20 A Yes.

21 Q So, conceivably then, the request would be in
22 one of these documents that we have in front of us that
23 was produced today?

24 A I'm sorry?

25 Q If you made the request for principle

1 reduction in writing, then we should find it in one of
2 the documents that was produced today.

3 Is that accurate?

4 A No.

5 Q Where else would that communication be then?

6 MR. GADDIS: Can we go off the record.

7 (Short discussion off the record.)

8 BY MR. BUELL:

9 Q Do you recall having any direct
10 communications with GMAC with regards to a request in
11 reduction principle loan balance?

12 A Define direct with GMAC.

13 Q With a representative, an employee with GMAC?

14 A Other than Severson & Werson?

15 Q Is it your understanding that Severson &
16 Werson is a direct employee with GMAC?

17 A I don't have an understanding of what their
18 relationship is with GMAC, except to the extent that
19 the scuttlebutt is you're doing these cases on a flat
20 rate. But other than that, I don't know.

21 Q Any of the conversations that you had with
22 employees of GMAC, where you called someone in Horsham,
23 Pennsylvania -- since you've used that location
24 before -- do you recall having any written
25 communications with an individual from GMAC Mortgage

1 out of their Horsham, Pennsylvania office with regards
2 to a reduction of principle balance?

3 A I don't have any recollection of that.

4 Q Do you have any recollection of having a --
5 making a request for principle balance reduction to an
6 attorney at Severson & Werson?

7 A I know there were settlement negotiations in
8 that manner, yes.

9 Q But you're not able to differentiate between
10 Severson & Werson employees and GMAC employees in the
11 context of making a request for principle reduction?

12 A I wouldn't.

13 Q Okay. If you turn to Page 2 of Exhibit 24,
14 please.

15 Itemized Numbers 5, 6, and 7 contain terms of
16 the repayment plan.

17 Would you agree with that statement?

18 Take your time to review it, please.

19 MS. STROMEYER: I'm going to object that the
20 document speaks for itself. And it may call for an
21 expert opinion or legal conclusion, which is not
22 Mr. Halloran's capacity here today.

23 THE WITNESS: You asked me to read it, and
24 then while I was reading it, you asked me a question.

25 What was your question?

1 BY MR. BUELL:

2 Q Go ahead and review Items 5, 6 and 7, and
3 please let me know when you're completed.

4 A Okay. Okay.

5 Q Do you understand -- is it your understanding
6 that 5, 6 and 7 are terms to this payment plan?

7 A What my understanding is currently?

8 Q Yes.

9 A I don't know if I have an understanding
10 currently.

11 Q Based on your review of the document, is it
12 your belief that, say, for example, Item 7 is a
13 schedule of the payments required to be made pursuant
14 to this agreement?

15 MS. STROMEYER: I'm going to --

16 THE WITNESS: Well, the document appears to
17 state what is required under the terms of the
18 agreement.

19 BY MR. BUELL:

20 Q And I believe I may have asked you this
21 before, so I apologize if I did.

22 But on Page 3 of this document, is there a
23 specific place for Bernard V. Ward to sign and date
24 this document?

25 A Not on the document that you're showing me.

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1 MS. STROMEYER: On the last page.

2 BY MR. BUELL:

3 Q Page 3 of the document.

4 MS. STROMEYER: The document speaks for
5 itself.

6 THE WITNESS: There is a signature line for
7 Bernard Ward, yes.

8 BY MR. BUELL:

9 Q And in your review of this document, this
10 document has been signed -- for the purposes of this
11 question, I understand that it is not signed by Bernard
12 Ward.

13 But do you agree that this document has been
14 signed with what appears to be someone with the
15 authority to sign on his behalf.

16 A Clearly. And, clearly, GMAC accepted each
17 one of these three payments in conformity with this
18 modified agreement.

19 Q And what's the basis for that testimony?

20 A Canceled checks.

21 Q Have you produced copies of those canceled
22 checks?

23 A Oh, and in addition, the documentary evidence
24 from GMAC evidencing receipt of that. And yes, we have
25 produced canceled checks.

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1 MS. STROMEYER: I don't believe that they
2 were produced as part of the production today.

3 MR. BUELL: That's fine.

4 Q Do you recall your next communication with
5 GMAC following the trial payment plan being -- excuse
6 me.

7 Do you recall the next communication you had
8 with GMAC following this January 14th, 2011
9 communication that we've previously marked as
10 Exhibit 24?

11 MS. STROMEYER: I'm going to object that that
12 misstates his testimony that indicates Mr. Halloran was
13 in direct communication to Mr. Bernard Ward. He did
14 not testify that it was a communication through him.

15 MR. BUELL: Fair enough.

16 Q Do you recall the next communication that you
17 had with GMAC Mortgage after January 14th, 2011?

18 A No.

19 Q Do you recall the basis of your next
20 communication you had with GMAC following the trial
21 payment plan being entered into?

22 A Not independent of what you might show me to
23 refresh my recollection, no.

24 Q Do you recall any conversations with GMAC in
25 February of 2011 regarding the pending sale date,

1 foreclosure sale date?

2 A After the execution of this modified program?

3 Q Correct.

4 A I can only say generally that I had to
5 continue to follow up to make sure that they were
6 continuing to delay the foreclosure consistent with
7 their obligations under this agreement.

8 Q As you said, you continued to follow up to
9 make sure.

10 Do you recall any reason for being concerned
11 the sale date had not been continued? For example,
12 receiving a notice of sale, receiving a communication
13 from GMAC that said the sale will be going forward on X
14 date, et cetera?

15 A Well, GMAC never sent a communication in
16 writing that they were going to sell anything. So that
17 didn't happen.

18 And I don't know what would have prompted me
19 to check, except that my recollection with what their
20 business practice was is that they wouldn't call to let
21 you know that it was being continued; you had to call
22 them.

23 Q So is it a fair -- I understand this is an
24 assumption -- is it a fair assumption that what you're
25 testifying to today is that you were calling GMAC -- if

1 you called -- because you don't recall specific
2 communications after this -- but if you made a
3 communication to them, it was out of an abundance of
4 caution to make sure the sale wasn't going to occur?

5 A Yes. And I know, as an example -- and this
6 is just an example -- that the kind of people that sit
7 on the courthouse steps and buy people's property, I
8 know that, after the Loan Modification Agreement that I
9 believe was entered into was entered into with a
10 payment received and accepted by GMAC, that someone in
11 my client's family received a phone call from somebody
12 about trying to get -- you know, the sale or buy the
13 property or something like that.

14 And that was at a time when GMAC didn't even
15 notify me or the borrowers that the property had
16 already gone into sale.

17 Q And just to be clear, that's exactly what I'm
18 getting at. Other than that example that you provided,
19 do you recall any other situations during the course of
20 this negotiation -- meaning August 13th, 2010 through
21 the present time -- when you were given any
22 communication -- notice from third party, GMAC,
23 anyone -- that a sale was going to take place, which
24 required you to take some affirmative action to make
25 sure that sale date had been postponed?

1 I know that's a compound question, but that's
2 what I'm getting at.

3 A Yeah. My general recollection, generally
4 speaking, is that, as an example, I have a series of
5 phone calls about a loan modification and then call to
6 find out where the modification like this pilot program
7 is, and I find out that -- in lieu of sending it to me,
8 as I requested -- they send it to this house.

9 I'm sure there are instances where there were
10 some communications about foreclosure issues and sale
11 dates, but I have no specific recollection right now.
12 I just know that their modus operandi was that, if you
13 want to find out about it, you had to call us, we
14 weren't going to let you know.

15 Q And just to clarify for my own understanding,
16 the example you just gave was not specific to this
17 case, that's your general dealings with GMAC.

18 Is that accurate?

19 A Well, that was consistent with what my
20 dealings with GMAC were in this case. It apparently is
21 consistent with their modus operandi business practice
22 because what happened with the Federal Reserve
23 demonstrated that it must have been going on
24 countrywide, which is why they wanted to enter into the
25 stipulation that they did.

1 Q And is that -- your testimony there based on
2 your experience from working on other cases regarding
3 loan modifications that may have involved GMAC?

4 A And looking at the 60 or 70 cases in
5 California filed against GMAC for exactly the same kind
6 of conduct which we're dealing with here today.

7 As well as looking at the stipulated order
8 and judgment with the Federal Reserve Bank that GMAC
9 entered into. So it's pretty clear what was going on
10 there.

11 Q Have you, in the course of your
12 representation, had any conversations with other
13 counsel -- since you've referenced I think you said 60
14 or 70 other cases in California against GMAC, have you,
15 in the course of your representation here, had
16 conversations with any other attorneys who have filed
17 actions against GMAC?

18 A I probably have had some conversations with
19 them, yeah. And I may have -- no, I probably haven't
20 had that yet.

21 Q Was your review of those 60 to 70 cases a
22 result of this case?

23 A Well, I was appalled by what GMAC did in this
24 case. And then I was further surprised that -- to find
25 out that this was happening so prevalently. And

1 obviously, Kamala Harris, our Attorney General, is
2 seeking their own cases against them, as well as other
3 Attorney Generals in the U.S. And, obviously, the
4 Federal Reserve has been concerned enough about it.

5 Q Have you had any conversations --
6 communications of any sort -- with Kamala Harris or any
7 AG office regarding this?

8 A Not her directly, I don't believe so.

9 Q And, obviously, I'm not getting to the basis
10 of the communications, just whether or not there were.

11 A But the Federal Reserve is keeping an eye on
12 you guys.

13 Q And have you had any conversations or
14 communications with the Federal Reserve regarding this
15 case or --

16 A Oh, yeah.

17 Q You have?

18 A Oh, yeah.

19 Q When did you have those communications with
20 the Federal Reserve?

21 A When I thought it was appropriate.

22 Q Do you have a date? An estimated date range?

23 A Not off the top of my head.

24 Q Last week? Last month?

25 A Are you going to ask me for an estimate when

1 these conversations occurred? Within the last year.

2 Q Have you had multiple conversations with the
3 Federal Reserve?

4 A My office has had multiple conversations with
5 the Federal Reserve, yes.

6 Q You personally or your office collectively?

7 A My office collectively.

8 Q Have you personally had multiple calls with
9 the Federal Reserve?

10 A Not me personally, no.

11 Q And the purpose of your call, was it directly
12 related to this case, or was it related to your general
13 handling of the matters regarding GMAC as a defendant?

14 A Both.

15 Q Have you had any written communications with
16 the Federal Reserve regarding these issues?

17 A Don't know.

18 Q Only phone calls is your recollection right
19 now?

20 A Currently.

21 Q How about your office? Do you know if anyone
22 from your office has had written communications with
23 the Federal Reserve regarding this?

24 A Don't know off the top of my head.

25 Q All right.

1 MR. BUELL: Let's mark this.

2 (Deposition Exhibit 25 was marked for
3 identification by the court reporter.)

4 BY MR. BUELL:

5 Q Marked as Exhibit 25, could you please tell
6 us what this document is.

7 A WARD 00017. April 22nd, 2011 letter sent via
8 facsimile and e-mail to Loss Mitigation, Horsham,
9 Pennsylvania.

10 Q And was this letter sent and prepared by you?

11 A Yes.

12 Q Could you tell me what your understanding of
13 the purpose of this communication is?

14 A I'd received an offer from GMAC for a
15 permanent loan modification in a telephone conversation
16 with a person who was a supervisor, whose name I don't
17 have off the top of my head.

18 And I went -- I'm pretty sure it was a
19 male -- told me what the modification terms were going
20 to be and was pleased to let me know that I could
21 convey this to my client.

22 And so I wanted to confirm in writing the
23 terms of the offer and that, you know, it would be
24 accepted.

25 Q Do you recall taking handwritten notes during

1 your conversation with the supervisor at GMAC?

2 A Yeah. I'm almost positive I would have taken
3 notes of this, because I then translated it into this
4 letter.

5 Q And again, this goes back to your general
6 practice. You don't know sitting here now if you did
7 that or not.

8 So your general practice would be -- am I
9 accurate in saying that you would take notes during the
10 course of a phone call and use those notes to prepare a
11 letter such as this?

12 A Yeah, that would be consistent. Now whether
13 or not I kept that note in this file, I don't know.
14 And then, parenthetically, one issue that we will have
15 to deal with is there is a representation by GMAC on
16 every phone call that they are recording these
17 conversations.

18 And, to date, we have not received any
19 recorded conversation of any conversation I had. I
20 don't know if those recorded conversations have been
21 looked for or exist, but we will be asking for those.

22 Q Last question before we take a brief break
23 here is, so as you sit here right now is the basis of
24 my question here.

25 As you sit here right now, does this

1 April 22nd, 2011 letter form the basis for the
2 modification that is -- that this action is based on?

3 Let me rephrase that. Does this letter
4 contain all of the terms of the modification?

5 MS. STROMEYER: Objection. May call for
6 legal conclusion. May call for expert testimony.

7 MR. BUELL: That's fine.

8 THE WITNESS: This conveys what the offer was
9 from GMAC for a permanent loan modification. This was
10 their offer. And this was our acceptance of their
11 offer. Offer, acceptance -- first year contracts.
12 Offer, acceptance, consideration, paid, estoppel in
13 pais. That's what this was.

14 MR. BUELL: Okay. Let's take a break.

15 (Short Break Taken.)

16 BY MR. BUELL:

17 Q We were talking about, before a short break
18 here, Exhibit 25. Just to recap so we're all back on
19 the same page, correct me if I'm misspeaking here.
20 This is a letter drafted and sent to GMAC from you on
21 April 22nd, 2011.

22 I believe your testimony was -- and correct
23 me if I'm wrong -- that this letter was confirmation of
24 a conversation you had with a supervisor at GMAC with
25 regards to an offer to modify the loan for Bernard

1 Ward.

2 Is that correct?

3 A Yeah. For a traditional loan modification.

4 Q And just for purposes of keeping the record
5 clean, would you mind -- you don't have to read the
6 letter, but would you mind just reading the terms that
7 are stated in your letter for the agreement?

8 A Yeah. Dear sir or madam, this will confirm
9 my recent conversation with your unit confirming that
10 the borrower has been approved as of April 21st, 2011
11 for a modified traditional modification with an APR
12 rate of 2.88 percent. The 432 modified payments of
13 principle, interest and PMI amount to \$3,253.24 per
14 month, the principle and interest payment of that sum
15 being \$2,678.12.

16 That was what was told to me, and that's what
17 I confirmed.

18 Q And do you recall this conversation took
19 place on the 22nd? On the 21st?

20 MS. STROMEYER: It's compound.

21 THE WITNESS: Well, I don't know if it was
22 the 21st or the 22nd. But you know, it was either the
23 21st or the 22nd.

24 BY MR. BUELL:

25 Q It was recent, right? Is what your letter

1 says?

2 A Yeah.

3 Q Do you -- as you sit here right now, without
4 taking a look at the handwritten notes that you may or
5 may not have taken on this phone call, do you recall
6 any specifics about the conversation that you had with
7 the supervisor prior to this letter being drafted?

8 MS. STROMEYER: That may be vague and
9 ambiguous.

10 Is your question does he recall anything
11 additional to what he's already testified to?

12 MR. BUELL: Correct.

13 THE WITNESS: No.

14 BY MR. BUELL:

15 Q Do you recall the name of the supervisor that
16 you spoke with?

17 A You know what, I don't.

18 Q Do you recall --

19 A I think he was 107. I don't know.

20 Q Do you recall if -- prior to speaking with
21 the supervisor for the purpose of this phone call
22 that's referenced in this letter, do you recall if you
23 spoke with another individual who then passed you on to
24 a supervisor or if you communicated directly with the
25 supervisor?

1 A No. At one point in time, the communications
2 on this part of the loan modification came -- I had at
3 least two conversations with this individual.

4 Q Okay. But you don't recall what that
5 individual's name was?

6 A No. But if you look at those records from
7 the internal records of GMAC, you'll probably know.
8 And he was -- whoever that person was. But in any
9 event, he was pleased to provide the information and
10 happy that it happened. He was enthusiastic about
11 helping the Ward family.

12 MS. STROMEYER: You don't have to speculate
13 to the person, but you don't remember the person?

14 THE WITNESS: I do not.

15 BY MR. BUELL:

16 Q Am I correct that you specifically remember
17 him saying something to the effect -- or I may be
18 paraphrasing -- but I'm pleased to inform you that
19 you've been applied for a loan modification?

20 MS. STROMEYER: You've been approved.

21 THE WITNESS: Congratulations, something
22 along those lines, sure.

23 BY MR. BUELL:

24 Q Do you recall any conversations with GMAC
25 between the trial payment plan -- so we'll call that,

1 from the exhibit we looked at earlier January 14th just
2 for ease of giving it a time frame.

3 Between January 14th, 2011 and your
4 conversation that forms the basis of this letter, so
5 we'll call it April 21st, 2011.

6 Between that time span, do you recall any
7 specific conversations with GMAC regarding the loan
8 modification?

9 A No. I know that there were some inquiries as
10 to what the status was of the evaluation of the
11 permanent loan modification.

12 Q Did you -- you don't recall any specifics of
13 those?

14 A I don't believe there were any specifics
15 beyond what's going on. And it was sort of like, I'm
16 trying to get some information from the Wizard of Oz.
17 It was, we'll tell you in good time. That was kind of
18 my --

19 Q As a more general broad question, so this
20 question will span the scope again of August 2010 to
21 present.

22 As a general matter, were most of your
23 conversations -- phone conversations with GMAC -- five
24 minutes? Two hours? Totally varied?

25 A I never had a two-hour conversation with

1 anybody at GMAC.

2 Q Did most of them tend to be very brief, on
3 the order of, say, less than ten minutes?

4 A I probably -- the longest conversation I had
5 was probably on the order of a half-hour. And the
6 shortest may have been on the order of two or three
7 minutes.

8 Q And I understand I'm asking you to generalize
9 here. Generally speaking, were they on the shorter end
10 of the spectrum?

11 In other words, the 30-minute call was more
12 the exception rather than the norm?

13 A Yeah. I don't know if I can tell you what
14 the normal was.

15 Q That's fine.

16 A But there was a range, obviously.

17 Q Do you have a recollection of GMAC calling
18 you directly during the full span of this August 2010
19 through present?

20 MS. STROMEYER: And just -- you're speaking
21 about GMAC; you're not talking about Severson & Werson?

22 MR. BUELL: Correct.

23 MS. STROMEYER: Okay.

24 THE WITNESS: Yes. GMAC was capable of
25 calling me and capable of leaving a voice message,

1 which they did, including a phone number to call the
2 individual back.

3 Which is why it's extraordinary that, when it
4 came time for GMAC to foreclose on the property
5 after -- in my belief they reneged on the deal -- they
6 didn't leave a message on my answering machine at the
7 office to let me know that.

8 BY MR. BUELL:

9 Q When you say reneged on the deal, just to
10 clarify the record, what's the deal you're referring
11 to?

12 A Well, there was a permanent loan modification
13 offer made by GMAC, the terms of which I read into the
14 record.

15 There was an agreement that the payments
16 should begin effective May 1st. Those payments -- that
17 first payment was made. That first payment was
18 accepted by GMAC and paid by GMAC.

19 And then, without announcing -- without
20 announcing that that was no longer a deal, GMAC went
21 forward and foreclosed on the property without
22 notifying anyone of it and then wrote a letter not to
23 me, the attorney of record in this negotiation, but
24 sent a form letter to my client saying that the loan
25 modification had been disapproved.

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1 Not because they couldn't get the documents
2 on time, which was the unofficial GMAC statement as to
3 why this deal didn't go through based on the PMK's
4 deposition testimony that I took. But rather that
5 Wells Fargo, which was never involved in any
6 discussions about this modification, had not approved
7 it, which was untrue. Because they had approved it.

8 So that's the reneging I'm talking about.

9 Q You just testified that Wells Fargo had
10 approved the Loan Mod.

11 Is that accurate?

12 A That's an accurate statement of your PMK
13 telling me what had happened, yes.

14 Q So is the basis for that testimony the
15 testimony provided by the PMK in the deposition that
16 you took?

17 A Well, it has to be. Because prior to that
18 time, GMAC had represented that it was negotiating the
19 loan modification, and that it had approved the loan
20 modification.

21 And never in writing or orally said as a
22 precondition that there was any other entity that
23 needed to approve it.

24 And, in fact, in not going forward with the
25 deal, didn't so state, but wrote a letter after the

1 property had been foreclosed upon.

2 Q Other than this letter, were there any other
3 written communications we'll say confirming what you
4 are -- what you are considering the offer?

5 MS. STROMEYER: And by this letter, you're
6 referring to Exhibit 25?

7 MR. BUELL: Exhibit 25.

8 THE WITNESS: Well, there was a payment that
9 was made timely by my client that was cashed by GMAC.
10 I don't know if there's any other letters that I sent
11 to GMAC after that point.

12 You know I certainly did send a letter after
13 the house had been foreclosed upon without notice.

14 BY MR. BUELL:

15 Q Did you ever receive a letter in response to
16 this April 22nd letter, which is marked as Exhibit 25?

17 A I don't remember off the top of my head.

18 Q Do you recall ever receiving a written
19 contract laying out the terms of the loan modification
20 for your clients?

21 A You mean in a proposed contract? I don't
22 know if I ever saw a proposed contract until I was
23 doing discovery in this case and was told that by the
24 PMK for GMAC, that they unilaterally made the decision
25 not to send any agreement to my client or to me because

1 they have an unwritten, unstated policy, that if it
2 can't get returned within the same month that they
3 don't send it out.

4 Q Just to clarify for the record, could you
5 just define for me, when you say proposed contract as
6 opposed to contract?

7 A Well, by definition, a contract -- if you say
8 something is a contract, it presupposes that it's been
9 executed by both parties.

10 So my viewpoint is that there was a contract
11 at the time that an offer was made by GMAC and accepted
12 by my client, communicated by me what the acceptance
13 was and payment made. So that's the contract I'm
14 talking about.

15 If there were any other proposed contracts, I
16 didn't see them.

17 Q Did you have a communication with your
18 clients following your phone call with GMAC? And by
19 phone call I mean the phone call that forms the basis
20 for your April 22nd letter.

21 A Well, I certainly would have always
22 communicated with my clients an important situation
23 such as this where GMAC was offering -- asking for an
24 agreement for a modified loan term for a permanent loan
25 modification.

1 And the inference or deduction, I guess, to
2 be drawn by the fact that my client paid the first
3 month of the agreement would infer that that probably
4 did happen.

5 Q Did you have a communication with Bernard
6 Ward about accepting the terms of the offer presented
7 by GMAC?

8 A I would consistently always provide material
9 information to my clients on important matters.

10 And, obviously, there would be no doubt in my
11 mind that I, as counsel, would make sure that my
12 clients were aware of offers, proposals, and one can
13 draw inferences when people have made payments under
14 the agreement that those kinds of things happened. But
15 I can't specifically testify about what my
16 communications were with my client.

17 Q And is that because you don't recall the
18 specific communication?

19 A No. That's because if I asked you, did you
20 talk to GMAC about the bad acts of GMAC in relation to
21 your defense, you would probably say, I can't do that,
22 Mr. Halloran, that's attorney-client privilege.

23 Q So just to make the record clear, are you
24 stating an objection that you will not respond to the
25 question on the grounds of attorney-client privilege?

1 MS. STROMEYER: You're asking about
2 communications that Mr. Halloran had with his client.
3 And, as we previously stipulated at the beginning,
4 there's a standing objection on the grounds of
5 attorney-client privilege.

6 Go ahead.

7 MR. BUELL: That's fair. Just to be clear, I
8 want to put this -- because obviously this
9 communication, we feel, is germane to this case.

10 I would just like to make clear that --

11 THE WITNESS: Can you explain to me why its
12 germane.

13 BY MR. BUELL:

14 Q Sure. The communications with your client
15 are essential to establishing that an acceptance of the
16 contract was, in fact, made. That there was, in fact,
17 a meeting of the minds.

18 A Do you know what the authority of disclosed
19 principal -- agent principal relationship is under the
20 law?

21 Q What do you mean by authority?

22 A Well, GMAC represented that they had the
23 authority to enter into a contract. They did. I am an
24 attorney for somebody negotiating a contract. End of
25 story.

1 Q Do you have --

2 A Attorney-client privilege for every
3 discussion I had with my clients under the subject
4 matter, the negotiations of which I had been retained.
5 So that's my subject matter on that.

6 Q Are you aware of any writings that contain
7 significance of either Bernard Ward or Colleen Halloran
8 accepting the terms of this proposed modification
9 offer?

10 MS. STROMEYER: I'm sorry, can you repeat the
11 question.

12 MR. BUELL: I'll rephrase it. I'll rephrase
13 it.

14 Q For ease of this question, I'm going to
15 define the proposed offer as the offer that you have
16 stated in your letter, which is marked as Exhibit 25.

17 Is that fair? So the offer will be --
18 proposed offer for the purposes of this question will
19 be the terms that you have laid out in your April 22nd
20 letter.

21 Is that fair?

22 A Yeah. I understand what you're saying.

23 Q Okay. So with that foundation -- sorry, I
24 lost my train of thought there in explaining the term.

25 Is it -- are you aware of any writings signed

1 by either of your clients that reflect the terms -- the
2 proposed offer, as we just be defined?

3 A Yes.

4 Q And what are those writings?

5 A A signed check payable to GMAC cashed by GMAC
6 consistent with the terms of the agreement that GMAC
7 had proffered to us, which was you have to start making
8 new monthly mortgage payments beginning in May
9 consistent with the offer that GMAC made to my clients,
10 which I communicated had been accepted.

11 Q Does that check reference the specific terms
12 of the modification as agreed between the parties?

13 A The check speaks for itself, Counsel. I
14 don't know what the check says. You asked me about a
15 handwriting.

16 Q Are you aware of any other written -- written
17 communications or written documents -- signed by either
18 of your clients, other than the check, that reflect the
19 terms of the proposed offer as defined earlier?

20 MS. STROMEYER: And by his client, you mean
21 apart from him as the authorized agent, an attorney?

22 MR. BUELL: Correct. And if you'd like, we
23 can split it out separately.

24 THE WITNESS: I'm not aware of any signatures
25 on any documents that I received from GMAC that my

1 clients had that altered or changed or did anything to
2 the terms that were agreed upon in the letter, which I
3 sent to GMAC.

4 BY MR. BUELL:

5 Q That wasn't my question, though. I'm going
6 to rephrase my question to you.

7 Are you aware of any documents, written
8 documents, that contain the proposed offer as we
9 described that have been signed by Bernard Ward?

10 A I'm not aware of any proposed offer that
11 you're describing.

12 I'm only aware of the fact that I, acting on
13 my client's behalf, okay, confirmed and accepted an
14 offer made by your clients.

15 And that there was never any contract
16 purportedly -- confirming those terms in the letter
17 that I sent from GMAC for my clients to sign.

18 So, therefore, there couldn't have been any
19 document that my client signed because your client
20 never sent one.

21 Q So I'm just going to ask it in a different
22 way, because I'd like to make this a clear question.
23 And I'm not going to use --

24 A I'm not going to answer it again.

25 Q Okay, that's fine. I'm going to state the

1 question anyway.

2 Are you aware by any writings signed by
3 Colleen Halloran -- either individually or as Power of
4 Attorney for Bernard Ward -- that reflect an acceptance
5 of an offer to modify the loan to an interest rate of
6 2.88 percent, with PMI as you have stated in your
7 letter amounts to be paid of \$3,253.24 per month for
8 432 modified payments?

9 A Yes.

10 Q You are? What are those documents?

11 A My client signed a check, which your client
12 cashed, for the first monthly mortgage payment, which
13 was consistent with the letter that you just read into
14 the record, which was that she was to pay \$3,252.24 per
15 month. And then I know of a second monthly payment
16 that was made. And I don't know if it was sent or not.

17 Q Other than the check that you've referenced,
18 are you aware of any other writings --

19 A Yes.

20 Q -- signed by Colleen Halloran that reflect
21 these terms?

22 A Other than what I've testified to, no.

23 MR. BUELL: Can we have this marked as the
24 next exhibit in line. I believe it's 26.

25

1 (Deposition Exhibit 26 was marked for
2 identification by the court reporter.)

3 BY MR. BUELL:

4 Q What's been marked as Exhibit 26 is a
5 document that was provided as part of the production of
6 the documents that you brought with you here today.

7 Is that correct?

8 A I don't know. But if the Bates stamp number
9 00077 is consistent with what we produced, then yes.

10 MS. STROMEYER: Yes.

11 MR. BUELL: Thank you, Counsel.

12 Q Please tell me what has been marked as
13 Exhibit 26.

14 A It looks like it's a photocopy of a check
15 4/26/11, pay to the order of GMAC Mortgage company,
16 \$3,253.24. Loan [REDACTED] 8940.

17 Q Is this -- meaning Exhibit 26 -- the check
18 that you've been referencing as the payment made by
19 your client in regards to a writing or written
20 communication accepting the terms of the offer proposed
21 by GMAC?

22 A Could be.

23 Q Are you aware of any other checks that your
24 client sent after April 22nd, 2011?

25 A There may have been.

1 Q Could you please take a look at and review
2 what's been marked as Exhibit 26 and let me know when
3 you're done.

4 A I've looked at it.

5 Q Does this check reference a loan number?

6 A I just read it off.

7 Q Does this check reference any of the proposed
8 terms that are contained in your April 22nd letter,
9 which has been marked as Exhibit 25?

10 A Yes.

11 Q What?

12 A \$3,253.24.

13 Q Does it contain any other terms?

14 A I don't know if it contains any other terms.
15 It references the amount that is to be paid under the
16 offer made by GMAC beginning May 1st.

17 Q To complete my question, does it contain any
18 of the other terms that you list in your April 22nd
19 letter.

20 A I don't know if it contains any other terms.
21 That's one term it contains.

22 Q Does it contain any of the other terms that
23 are listed in your April 22nd letter?

24 A I can't see whether the document contains it
25 or not. The document speaks for itself.

1 Q As you review Exhibit 26, do you see any
2 reference to an APR rate of 2.88 percent?

3 A I don't see that the document has any
4 reference to an APR rate.

5 Q Do you see that Exhibit 26 has any reference
6 to the term or -- any reference to 432 modified
7 payments?

8 A I do not see any reference to 432 modified
9 payments.

10 Q Do you see any reference on Exhibit 26 to a
11 principle and interest payment of that sum being
12 \$2,678.12?

13 A No. I only see that the principle of
14 \$2,678.12 plus the PMI is \$3,253.24, which is what my
15 client paid to GMAC. And because of the stamp there,
16 it was cashed by GMAC. Looks like on April 29th.

17 Q And, for clarification purposes, going back
18 to Exhibit 25 in your letter, you reference what you
19 just mentioned, PMI amount of.

20 What does PMI stand for?

21 A It's an impound account that was required of
22 GMAC for this particular loan, that that impound
23 account be paid to GMAC so they could assure that the
24 taxes and insurance were paid on the property.

25 Q So am I understanding correctly then that the

1 two numbers referenced in your April 22nd letter, the
2 PMI amount and the principle and interest payment, the
3 difference between those two numbers would be the
4 impound amount?

5 MS. STROMEYER: Objection. Calls for
6 speculation. May call for a legal conclusion.

7 THE WITNESS: I think I specified in the
8 letter what the principle and interest payment was and
9 what the PMI and impound account was because that was
10 the number they gave me.

11 BY MR. BUELL:

12 Q So this -- then I'm hearing you correctly
13 that this letter -- since you drafted it, I think it's
14 a fair question to ask you -- was simply just a
15 recitation of what was told to you and not necessarily
16 a computation of your own?

17 A Not at all, no. This was an offer to me for
18 my clients to review and accept or reject. They
19 accepted it. They paid the money.

20 Q And your understanding of PMI is that it's
21 the principle and interest amount plus the amount
22 required to make this monthly impound account?

23 A Yes. That's what the number was that was
24 proffered, yeah.

25 Q In the conversation you had prior to writing

1 this letter, were there any questions that you had and
2 posed to the individual you were speaking with with
3 regards to these terms?

4 A Did I pose any questions to him on that
5 subject matter? I don't believe I -- I don't know if I
6 did or didn't.

7 Q Do you recall how long that conversation was?

8 A I do not.

9 Q Do you recall asking for clarification on any
10 terms that were proposed to you?

11 A I have no recollection one way or the other
12 on that.

13 Q Do you recall discussing what the principle
14 balance of the loan would be?

15 A I don't believe that was part of the offer.

16 Q Do you recall any conversations regarding
17 whether or not the interest rate would adjust at any
18 point?

19 A It was not an adjustable interest rate.

20 Q Do you recall the individual specifically
21 using the words fixed rate?

22 A I recall the individual saying that it was a
23 rate of a certain amount for a certain period of time
24 with certain number of payments.

25 Q Were you -- do you recall -- as you sit here

1 today, do you recall if you were aware on April 22nd
2 when you prepared this letter what the principle
3 balance of the loan was?

4 A I don't have a state of mind now as to what
5 my state of mind was then.

6 Q Would you have been able to determine that?

7 A No, I couldn't have determined that.

8 Q What the principle balance was?

9 A No.

10 Q Did you ever -- do you recall if you ever
11 posed the question -- if you ever inquired to GMAC
12 about what the principle balance was during this time
13 frame, say April 1st through April 30th of 2011?

14 A I don't know if that -- I don't believe that
15 issue came up because it was a modified program -- a
16 permanent modified program, in which they were telling
17 me how many monthly payments were going to be made and
18 how much they were for. That was their offer.

19 Q So based on that statement, is it currently
20 your understanding that if you were to simply multiply
21 this PMI amount by 432 payments, you would get the
22 principle balance of the loan or the amount required to
23 pay off the loan?

24 MS. STROMEYER: Objection. Irrelevant as
25 to -- what his personal understanding is is completely

1 irrelevant.

2 THE WITNESS: I don't have an understanding
3 of that one way or the other.

4 BY MR. BUELL:

5 Q Have you ever run an amortization schedule on
6 a loan?

7 A If I have on this case, it would be work
8 product.

9 Q But do you have any experience in preparing
10 an amortization schedule?

11 A Well, in other words, can I get somebody to
12 make the calculations for me, yes. Do I personally get
13 on the computer and do it? No.

14 Q Have you ever?

15 A Have I ever what?

16 Q Done an amortization schedule yourself?

17 A No. I just told you, I wouldn't get on the
18 computer and do an amortization schedule myself; I
19 would have somebody else do it.

20 Q Do you know if an amortization schedule was
21 run following this proposed offer being made to you?

22 MS. STROMEYER: Objection. Vague and
23 ambiguous. By Mr. Halloran or by anybody --

24 MR. BUELL: By Mr. Halloran.

25 THE WITNESS: An amortization schedule by me?

1 BY MR. BUELL:

2 Q Yes. By anyone in your office.

3 A No. The only entity which would have run an
4 amortization schedule would have been the lender, who
5 was offering these terms to me.

6 So my belief was that, since the lender was
7 offering these terms, that they ran whatever schedule
8 they were going to make because they were offering
9 these terms. And my client accepted them and made her
10 first payment on them.

11 Q And so you didn't go any deeper with an
12 analysis as to whether or not these terms were
13 reasonable?

14 A They are reasonable.

15 Q And what do you base that statement on?

16 A Because, obviously, my client accepted them
17 and was willing to abide and honor the obligations that
18 were contained in this agreement.

19 And the only entity that didn't honor the
20 obligations is GMAC.

21 Q Now, this question, I'm not asking you what
22 your communication to your client was, I'm prefacing it
23 with that. That's not the purpose of my question.

24 Prior to having any communication with your
25 client following your conversation with GMAC regarding

1 this proposed offer, did you run -- did you conduct any
2 analysis, review the terms that were proposed to you or
3 consider if they were terms that were reasonable, good
4 terms and you should -- and determine whether or not
5 you should recommend it to your client?

6 MS. STROMEYER: I'm going to object that that
7 is going to be work product.

8 THE WITNESS: Before I got the offer, did
9 I --

10 BY MR. BUELL:

11 Q No. Between the offer being presented to you
12 by GMAC and you conveying the offer to your client for
13 review, did you conduct any analysis on the terms that
14 were provided to you?

15 A I don't know what you mean by analysis, but
16 if you did, it would be work product. But remember,
17 to give you some context of where you think you guys
18 are going in this case, the loan modification program
19 that GMAC had created was premised upon them looking
20 at income and expense and what the borrower could
21 afford.

22 And because GMAC wouldn't exist except for
23 the fact that you and you and you, me and her and all
24 the other taxpayers in this country bailed out GMAC to
25 the point that, at this time, 72 percent of the

1 ownership of GMAC was the United States Government, at
2 this time, okay, it wouldn't exist unless we bailed
3 them out.

4 And as the quid pro quo for them to do that
5 was that they were supposed to help the little guy who
6 had fallen on hard times, just as GMAC had done.

7 And so GMAC had represented to President
8 Obama's administration that they were going to help
9 people who couldn't afford their loans by modifying
10 them.

11 Therefore, they set up a system in which they
12 had three monthly payments. And if they could make
13 those three monthly payments, and if the income and
14 expense under their own criteria -- their own
15 criteria -- was okay, they would offer a permanent loan
16 modification.

17 They offered a permanent loan modification,
18 which was consistent with the prior temporary
19 modification program -- consistent with it -- and
20 said, this is good for the rest of this period of
21 time.

22 So that's where my client and I were coming
23 from. And that's where we're at. And it was GMAC that
24 reneged on this, not my client.

25 Q I apologize if I've asked this before. I

1 don't think I have. But do you recall any specific
2 conversations with GMAC regarding the interest rate
3 contained in your letter confirming a 2.88 percent APR
4 as ever adjusting under this modified loan?

5 A You asked me that question already.

6 MS. STROMEYER: Asked and answered.

7 BY MR. BUELL:

8 Q Do you recall having any conversation after
9 April 22nd with GMAC about the rate adjusting?

10 MS. STROMEYER: I'm going to object that
11 that is vague and ambiguous. There's been
12 settlement communications, everyone has been
13 talking about --

14 MR. BUELL: Between GMAC. So let's ignore
15 litigation. Not with Severson & Werson, not with
16 attorneys for GMAC, but with GMAC directly.

17 THE WITNESS: Here is the fraudulent aspect
18 of where GMAC is coming from, okay. If GMAC believed
19 that there was a misunderstanding about the terms after
20 they got this letter, nothing stopped GMAC from writing
21 a confirming letter saying, oh, no, no, no, that isn't
22 what we meant. It doesn't exist, okay.

23 Before they foreclosed on my client's
24 property and hired a San Diego law firm to begin
25 evicting my clients after GMAC had promised that they

1 wouldn't proceed with evictions pending our discussion
2 about this, nothing would have stopped GMAC from
3 saying, you know, we actually had a different proposal
4 that wasn't properly communicated. Didn't happen.

5 Does that answer your question?

6 BY MR. BUELL:

7 Q I'll say indirectly.

8 A Yeah.

9 MS. STROMEYER: That's generous.

10 BY MR. BUELL:

11 Q We'll go for about ten more minutes, then
12 we'll let you get out of here.

13 A Thank you.

14 (Short discussion off the record.)

15 MR. BUELL: Off the record we've had a
16 discussion that we're going to conclude the deposition
17 for today but the deposition will remain open.

18 The parties will meet and confer following
19 this deposition about continuing the deposition likely
20 at a time next week. I think that's it.

21 THE REPORTER: Do you want a copy?

22 MS. STROMEYER: Yeah, but no rush.

23 THE REPORTER: Is there a rush on your end?

24 MR. BUELL: Yeah. Why don't you get it to us
25 when you can, please.

1 THE REPORTER: So Friday then, is that good?

2 MR. BUELL: That would be great.

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4 (TIME NOTED: 12:55 p.m.)
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7 I, TIMOTHY HALLORAN, do hereby declare under
8 penalty of perjury that I have read the foregoing
9 transcript; that I have made any corrections as appear
10 noted, in ink, initialed by me, or attached hereto; that
11 my testimony as contained herein, as corrected, is true
12 and correct.

13 EXECUTED this _____ day of _____,
14 20____, at _____, _____.
(City) (State)

15
16
17 _____
TIMOTHY HALLORAN
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1 I, the undersigned, a Certified Shorthand Reporter
2 of the State of California, do hereby certify:

3 That the foregoing proceedings were taken before me
4 at the time and place herein set forth; that any
5 witnesses in the foregoing proceedings, prior to
6 testifying, were duly sworn; that a record of the
7 proceedings was made by me using machine shorthand which
8 was thereafter transcribed under my direction; further,
9 that the foregoing is a true record of the testimony
10 given.

11 I further certify I am neither financially
12 interested in the action nor a relative or employee of
13 any attorney of party to this action.

14 IN WITNESS WHEREOF, I have this date subscribed my
15 name.

16
17 Dated: January 27, 2012
18
19
20

LORI STOKES

CSR No. 12732

[& - 9th]

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February 1, 2012 Transcript of Deposition of Timothy Halloran

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

BERNARD WARD and COLLEEN
HALLORAN,

Plaintiffs,

vs.

GMAC MORTGAGE, LLC, and
DOES 1-20,

Defendants.

) Case No. CGC-11-511574

DEPOSITION OF TIMOTHY HALLORAN
San Francisco, California
Wednesday, February 1, 2012
Volume II

Reported by:
JENNIFER L. FURIA
CSR No. 8394

Job No. 133872

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

BERNARD WARD and COLLEEN
HALLORAN,

Plaintiffs,

vs.

GMAC MORTGAGE, LLC, and
DOES 1-20,

Defendants.

) Case No. CGC-11-511574

Deposition of TIMOTHY HALLORAN, Volume II,
taken on behalf of Defendant, at One Embarcadero Center,
Suite 2600, San Francisco, California, beginning at
10:34 a.m. and ending at 11:42 a.m. on Wednesday, February
1, 2012, before JENNIFER L. FURIA, Certified Shorthand
Reporter No. 8394.

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11		Mortgager: Bernard V. Ward Account	
12		Number [REDACTED] 8940 Property Address:	
13		3300 Kirkham Street, San Francisco,	
14		CA 94112 Our File: ZZTM.989105.1	
15		from Timothy J. Halloran Bates	
16		stamped WARD 000014 and WARD 000015	
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18	EXHIBIT 28	A letter dated May 25, 2011 to Loss	125
19		Mitigation Attention: Brett Re:	
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21		Number [REDACTED] 8940 Property Address:	
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REQUEST FOR INFORMATION

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114	5-7

INSTRUCTION NOT TO ANSWER

Page	Line(s)
146	2-4

1 San Francisco, California, Wednesday, February 1, 2012

2 10:34 a.m.

4 TIMOTHY HALLORAN,

5 having been administered an oath, was examined and 09:49:29
6 testified as follows:

8 EXAMINATION

9 BY MR. BUELL:

10 Q Welcome back, Mr. Halloran -- 10:34:54

11 A Thank you.

12 Q -- for round two. Just to jump off, the only
13 opening admonition we'll do, is there any reason you can't
14 provide accurate testimony today?

15 A No. 10:35:03

16 Q Did you review anything in preparation for
17 today's testimony?

18 A No.

19 Q No files, no anything else?

20 A No. 10:35:13

21 Q Let's start then. Jump off where we sort of
22 left off last time. I'm going to start with what's been
23 previously marked as Exhibit 25. We'll use the exhibit
24 that was marked from last time.

25 /// 10:35:32

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1 (Exhibit 25 was previously marked for
2 identification by the court reporter and
3 attached hereto.)

4 BY MR. BUELL:

5 Q Just so we're all on the same page, could you 10:35:35
6 please tell us what Exhibit 25 is?

7 A This is a April 22nd, 2011 letter from my office
8 to the GMAC Loss Mitigation confirming an agreement with
9 GMAC on modification for a loan for loan number
10 [REDACTED] 8940. 10:35:52

11 Q And, again, just to catch us all up to speed.
12 Did you send this letter as a follow-up to a conversation
13 that you had with somebody at GMAC?

14 A That's correct.

15 Q Do you recall any of the specifics about the 10:36:12
16 conversation you had with the individual at GMAC? That's
17 a broad question, I can specify if you like.

18 A You know, I got the phone call. He, I believe
19 it was a gentleman, informed me that the modification had
20 been approved and that these were the terms of the 10:36:28
21 modification. And I said fine. And I confirmed the terms
22 that were provided to me in this letter, once it was
23 determined they were acceptable.

24 Q Do you recall if you took any notes during that
25 conversation? 10:36:48

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1 A I believe you asked me last time that. I don't
2 have a specific recollection of taking notes, but
3 considering that there were specifics terms here, I would
4 suggest that I did take some notes, yes.

5 Q Are you aware if you have any -- as you sit here 10:36:57
6 right now -- if you have any personal notes of your own in
7 your file regarding this matter?

8 A I don't off the top of my head, no.

9 Q If you do, that is something that we would be
10 interested in obtaining, so we'll follow up with that 10:37:13
11 after this.

12 Going forward. Do you recall, in the process of
13 this loan modification negotiation, what occurred after
14 you sent this April 22nd letter?

15 A My client paid the first monthly payment, which 10:37:32
16 was accepted, you know, cashed by GMAC. What happened
17 after that?

18 MS. STROMEYER: Well, that's the next thing in
19 time that happened. That was your question; so do you
20 have another question? 10:37:54

21 THE WITNESS: Right.

22 BY MR. BUELL:

23 Q Do you recall what happened after she sent in
24 the check and it was cashed?

25 A I don't know of anything that happened per se. 10:38:00

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1 My first notification that GMAC may have done something
2 awry, was my niece called me and said that a -- some kind
3 of a mortgage bailout had called her on a Friday afternoon
4 to say that the house was about to be sold and would they
5 be interested in working out some kind of a deal. 10:38:20

6 Q You mentioned your niece. Did she reside at the
7 property?

8 A Yes, she did. So she was obviously concerned
9 about that. Of course, I assured her that GMAC was an
10 honorable company, wouldn't have dare done that under the 10:38:33
11 circumstances.

12 Q And, again, just to clarify. When you refer to
13 your niece, is that the daughter of your client Ms.
14 Halloran?

15 A That's correct. 10:38:44

16 Q Makes sense why she would reside in the property
17 then.

18 So your next recollection after this is that
19 phone call. Do you recall -- do you know what happened
20 after that phone call was received? 10:38:57

21 A I believe, I think the phone call was after
22 business hours. I don't recall, but anyway the next
23 business day, I believe, I called GMAC.

24 Q Do you have any idea, date-range, what we are
25 talking about with this phone call from your niece and 10:39:13

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1 then your subsequent phone call?

2 A You know, there may be some letters that would
3 be more accurately reflective of the conversation and the
4 days, but I think that the property was sold, I believe,
5 on a Friday. And that was the day I got the phone call. 10:39:25
6 It might have been that Monday that I called GMAC to find
7 out what had happened, what was going on.

8 Q If I tell you the sale occurred on May 20th, I
9 believe -- May 23rd, I believe it was, does that refresh
10 your recollection about dates for those phone calls at 10:39:47
11 all?

12 A You know what, I don't know if it specifically
13 would refresh my recollection. I know that the phone call
14 came before I had a conversation with GMAC, which was --
15 at that point they notified me that they had decided that 10:40:01
16 there was no modification.

17 Q And I'm sorry if you made this clear. I may
18 have missed it. Just so I'm clear on the exact time line,
19 because you mentioned the phone call to your niece may
20 have been after hours. And you also mentioned that it may 10:40:14
21 have been a Friday with your communication following up to
22 GMAC on Monday.

23 A You know, if I had a calendar, it might help. I
24 mean, if you refresh my recollection with -- I believe I
25 wrote a letter the same day that I had a communication 10:40:27

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1 with GMAC, so whatever date that was, that would help me
2 go backwards in time as to the communications.

3 Q Without a calendar in front of us, does that
4 sound -- seem about right that the phone call may have
5 come in after hours on a Friday and that's why you didn't 10:40:41
6 reach out to GMAC until the following Monday?

7 A I don't know, but let me look. I have a
8 calendar here.

9 Q Sure. Back to 2011.

10 A We'll see, won't we. 10:40:52

11 Did you say it was March?

12 Q May. And, I believe, 23rd is the date I gave
13 you for the foreclosure occurring.

14 A Yes. So looking at -- taking judicial notice of
15 my Blackberry's calendar. I believe the phone call was on 10:41:26
16 the 20th and I believe that the conversation that I had
17 with somebody from GMAC was the 23rd or the 24th.

18 Q And just because you're looking at your
19 Blackberry, not me, is the 20th a Friday?

20 A Yes. 10:41:41

21 Q Okay. Thank you.

22 Following that phone call -- well, let me back
23 up and say, do you recall what your conversation was on
24 Monday the 23rd with GMAC?

25 A Whatever day it was, whether it was the 23rd or 10:41:57

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1 not, my conversation was I have heard that the property
2 was in foreclosure or was sold and I want to confirm that
3 we still have a loan modification which was approved and
4 was paid. And a woman informed me that I was incorrect.
5 That the loan had been not modified, that the 10:42:14
6 quote/unquote "investor group" had not approved it.

7 Q Was that the first time you recall hearing that
8 the loan mod had not been approved?

9 A Yes.

10 Q And just for clarification on the record, when I 10:42:32
11 refer to "mod" I mean loan modification.

12 A Understood.

13 Q And, I'm sorry, your answer's yes, that was the
14 first time that you heard?

15 A Correct. 10:42:44

16 Q Do you recall what transpired after that? So
17 what was your next communication with GMAC?

18 A The individual, whose number I don't know, but
19 we will depose her obviously, told me that I obviously
20 didn't know what I was doing, because everyone has to have 10:43:06
21 their investor group approve loan modifications and that
22 it simply wasn't approved. I mentioned to her that in
23 fact there had been a loan modification approved and that
24 a payment had been made. She said that that was not true.

25 What she didn't tell me was that GMAC had any 10:43:22

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1 kind of program that they had to get the documents in the
2 same month, which is why they didn't apparently send
3 documents. She didn't tell me that there had been a
4 resubmission. She didn't tell me anything about that at
5 all. She refused to tell me whether or not the house had 10:43:39
6 been sold, refused to look the information up. Informed
7 me that I now had to contact counsel, who was in Southern
8 California, that was involved in the foreclosure
9 proceedings. And when I asked, I think to talk to her
10 superior, she was unavailable for that purpose. So I 10:43:56
11 wrote a letter to confirm what I considered to be the
12 tortious breach of contract conduct of GMAC. I think
13 that's what I did.

14 Q And just to be clear, that conversation that you
15 just explained in detail, was that all one conversation 10:44:12
16 that occurred, your first communication with GMAC after
17 learning of the potential sale?

18 A Exactly. Yeah.

19 Q That was a phone call, not a written
20 communication? 10:44:26

21 A No. That was a phone call. There was a written
22 communication that I drafted, I think shortly
23 thereafter.

24 Q Do you remember if you had a direct person to
25 call at GMAC for that phone call or did you just call a 10:44:35

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1 general number that you'd been using?

2 A I don't remember off the top of my head, but I
3 know that there had not been anyone specifically assigned
4 to this modification, even though that was part of the
5 consent decree. 10:44:49

6 Q We may have the letter that you're talking about
7 for the follow-up.

8 So we are on 27.

9 (Exhibit 27 was marked for identification by the
10 court reporter and attached hereto.) 10:45:20

11 BY MR. BUELL:

12 Q You've been handed what's been marked as Exhibit
13 27. Are you familiar with this document?

14 A Yes.

15 Q Could you tell me what this document is, 10:45:34
16 please?

17 A Well, this is my letter of May 23rd to the Loss
18 Mitigation department concerning their conduct in
19 foreclosing on the property and violating the agreement
20 that we had with them on the loan modification. 10:45:47

21 Q Based on the testimony you just provided
22 regarding the conversation you had with GMAC, do you
23 believe this is the letter that you sent to GMAC following
24 up that conversation?

25 A I believe so. 10:46:03

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1 Q Is that accurate?

2 If you wouldn't mind just taking a brief moment
3 to review it and confirm that sort of comports with the
4 testimony you just gave.

5 A Yeah. This is the letter I wrote in response. 10:46:15
6 I do note that it was attention to Brett. I do know that
7 at least one person I spoke to that day was a woman, whose
8 name escapes me. Brett may have also had a conversation
9 with me. It may be that Brett was the first tier and the
10 woman was the second tier. But yeah, it confirms 10:46:30
11 basically what transpired.

12 Q Do you recall if you made multiple phone calls
13 to GMAC or if there was only one phone call?

14 A I can't tell you at this time.

15 Q And, again, I'm just getting to what you were 10:46:49
16 alluding to. You know, you don't know if Brett was the
17 first person you talked to and passed you on or vice
18 versa?

19 A Yeah, I don't know exactly.

20 Q Okay. All right. So following this, we'll call 10:46:59
21 it the May 23rd letter, which has been marked as Exhibit
22 27; do you recall what happened next?

23 A Not specifically, no.

24 Q What do you recall, as you sit here today as
25 being the next event that transpired following this 10:47:14

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1 letter?

2 A Let me see. GMAC stuck their head in the sand,
3 didn't do anything. I think I had to, you know, threaten
4 a lawsuit and nothing happened. They proceeded to -- let
5 me see, proceeded to try to evict my client from the 10:47:37
6 premises. They notified my client's insurance carrier
7 that her home was unoccupied and, therefore, they canceled
8 her insurance. I got a standstill agreement from GMAC
9 that we wouldn't proceed with any further activity in the
10 matter and the activity that I just described, I think, 10:48:01
11 all occurred after that standstill agreement. And I
12 believe I had to file a lawsuit.

13 Q And I assume -- or let me state it a different
14 way.

15 Do you recall sending any confirming letters 10:48:26
16 following any of those conversations?

17 A I presume I must have sent some kind of paper
18 trail on that.

19 Q Are you aware of any notes or any other
20 documentation besides written letters you have to GMAC 10:48:37
21 that might refresh your recollection as to those events or
22 any more specifics as to those events?

23 A I don't think I have any contemporaneous notes
24 that I took with regard to my internal thinking on the
25 subject matter, no. I know that I probably did send 10:48:54

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1 letters to GMAC every time they did, yet, what I
2 considered to be another offending activity, but beyond
3 that, no.

4 Q And to clarify. I'm not necessarily seeking
5 your contemporaneous thoughts on the subject, but rather, 10:49:07
6 you know, any notes regarding specifics of conversations,
7 individuals you spoke to, et cetera.

8 A I don't know if there are any notes on that
9 subject matter.

10 Q Is there any way to determine if there are any 10:49:26
11 notes? Review of your file or anything of that sort?

12 A Well, I certainly have a file and my file
13 contains my notes and my work product, but I'm pretty sure
14 there's probably correspondence with regard to the
15 standstill issues relative to the eviction of my client 10:49:41
16 from her premises, because I believe there was a law firm
17 in Southern California that was involved in that
18 activity.

19 Q Did you have direct interaction -- let me use a
20 different word. 10:49:56

21 Did you have direct communication with this law
22 firm this San Diego?

23 A If by you, you mean my office, yes. If by you,
24 you mean me individually, I don't know if I had any direct
25 communications. 10:50:07

1 Q Just to clarify for the record. Were there any
2 other individuals at your office that had been working on
3 this file?

4 A Yes.

5 Q And who are those other individuals? 10:50:16

6 A Well, there's a staff of people in my office
7 that would be working on this file, but my associate that
8 has been working on this file is Karen Stromeyer.

9 Q So Ms. Stromeyer may have had some conversations
10 or direct communications with this firm down in San 10:50:28
11 Diego?

12 A Ms. Stromeyer did have direct communications
13 with this law firm, which is how I know that they agreed
14 to a standstill to not proceed any further in the eviction
15 of my clients. 10:50:40

16 Q But you personally didn't have any direct
17 communications with them?

18 A I think I mentioned --

19 MS. STROMEYER: He's already testified. Asked
20 and answered. 10:50:45

21 THE WITNESS: -- I may have, but I'm not sure.

22 BY MR. BUELL:

23 Q I think when you were providing your time line
24 you ended with "And I believe I filed a lawsuit." Does
25 that sound accurate? 10:51:03

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1 A I believe I did file a lawsuit.

2 Q Do you recall any communications after filing
3 the lawsuit with GMAC? To clarify, I don't mean an
4 attorney representing GMAC, I mean GMAC directly.

5 A I may have. I just don't know off the top of my 10:51:17
6 head.

7 Q Is there anything, any documents, notes, et
8 cetera, that might refresh your recollection on that
9 topic?

10 A There might be, I don't know. 10:51:27

11 Q If there were, what would they be?

12 A I don't know. It would be speculative for me to
13 tell you what to refresh my recollection.

14 MR. BUELL: Let's go ahead and have that marked
15 as 28. 10:51:47

16 (Exhibit 28 was marked for identification by the
17 court reporter and attached hereto.)

18 BY MR. BUELL:

19 Q You've been handed what's been marked as Exhibit
20 28. Can you please tell us what this document is? 10:52:03

21 A May 25th, 2011 letter that I wrote to Brett at
22 GMAC concerning loan [REDACTED] 8940.

23 Q Do you recall the conversation that led to this
24 letter being sent to Brett?

25 MS. STROMEYER: Lacks foundation. 10:52:33

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1 THE WITNESS: I don't have a specific
2 recollection of each item of the discussion. I believe
3 that I presented what had happened. And I believe that
4 Brett confirmed, through his computer system, things that
5 I was describing to him. And I asked whether or not he 10:52:51
6 was capable, in his capacity, of agreeing to a standstill
7 so that the property wouldn't then be sold to some other
8 third party or anything. We'd just have kind of a status
9 quo standstill agreement until he could look into it
10 further. 10:53:12

11 BY MR. BUELL:

12 Q And that was the follow-up question. You
13 mentioned a standstill agreement earlier. Is this your --
14 is this what you were referring to as the standstill
15 agreement? 10:53:23

16 A I believe this confirmed what I understood to be
17 the stand still agreement on the 25th of May, yeah.

18 Q Are you aware of any other written
19 communication, written document, regarding that standstill
20 agreement or just this is confirmation of your, sort of, 10:53:33
21 call regarding that issue?

22 A Well, clearly I had a conversation with somebody
23 who represented themselves to be authorized on behalf of
24 GMAC to enter into this. And then, I believe subsequent
25 to that, there was some other activity which came to mind 10:53:45

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1 which required us to have further intervention in that
2 regard.

3 Q Could you just expand on what you mean by
4 activity?

5 A I think they tried to evict my client from the 10:53:56
6 property. And there was at least one other thing that
7 came up.

8 Q Do you recall what that other thing is?

9 A Let me see now. One of them that came up was
10 they tried to give back the money that they had cashed, 10:54:11
11 presumably in an effort to do an accord and satisfaction
12 issue, to stop the modification enforceability provisions.

13 They notified -- without any authority
14 whatsoever, notified the insurance company that insured,
15 my clients' home, that it was an unoccupied premises, 10:54:36
16 therefore, no longer habitable for insurability. That was
17 another one that came up.

18 MR. BUELL: Lets move on to 29.

19 (Exhibit 29 was marked for identification by the
20 court reporter and attached hereto.) 10:54:53

21 BY MR. BUELL:

22 Q You've been handed what's been marked Exhibit
23 29. Once you've had a chance to review it, could you
24 please let us know what this document is?

25 A This was a letter which I wrote to Brett, again, 10:55:16

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1 GMAC on June 1st, 2011 in -- I guess, in relation to that
2 check that was sent by GMAC to my clients in relation to
3 their loan.

4 Q And is this the check being returned that you
5 just referenced a few minutes ago? 10:55:41

6 A This was one of them.

7 Q When you say one of them, was there another
8 check that was returned?

9 A Oh, I believe that there was more than one.

10 Q Would you say there's more than two checks that 10:55:49
11 were returned?

12 A I don't know, but I know that while your law
13 firm was representing GMAC I had to contact your law firm
14 on the fact that GMAC was continuing to do this
15 activity. 10:55:59

16 Q Just to clarify, what do you mean by activity?

17 A Trying to send back checks in an effort to
18 unwind the agreement.

19 Q And just to make the record clear. When you use
20 the term agreement, what are you referring to? 10:56:13

21 A The agreement that forms the basis for the
22 lawsuit against GMAC for breach of contract.

23 Q Again, to clarify for the record, would it be
24 accurate to say that that agreement is the agreement that
25 you describe in your April 22nd letter, which is Exhibit 10:56:27

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1 25?

2 A It's the agreement that I've described in the
3 Complaint which I filed against GMAC.

4 Q I'm not sure that's directly responsive to my
5 question. 10:56:45

6 A I don't know if that's the agreement that you're
7 describing. I'm talking to you about the agreement which
8 forms the basis for my Complaint for breach of contract,
9 which that was specified in the Complaint.

10 Q Would you mind taking a look at Exhibit 25? 10:56:54

11 A Yes, I see this.

12 Q Does this letter, Exhibit 25, refer to the terms
13 of the agreement that you're discussing right now?

14 A I'm not discussing the terms of the agreement.

15 Q Does this letter refer to the terms of the 10:57:09
16 agreement that, as you put it in your testimony, forms the
17 basis of the Complaint?

18 A It certainly has those aspects, yes.

19 Q Maybe there's something I'm missing then that
20 I'm not understanding from you. What additional terms are 10:57:25
21 there in the agreement that forms the basis of your
22 Complaint that are not referenced in this confirming
23 letter?

24 A I don't know what you mean by your question.
25 I'm sorry. 10:57:38

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1 Q Perhaps you could explain to me then. What I'm
2 missing is the difference between what this letter lays
3 out and the agreement that forms the basis of your
4 Complaint; what's the difference in the two?

5 MS. STROMEYER: Objection. Vague and ambiguous, 10:57:53
6 lacks foundation. May call for attorney work product.

7 THE WITNESS: Yeah, I'm not getting where you're
8 going with this. I think we've gone over what Exhibit 25
9 was. Your questions on Exhibit 29 were the relation
10 between the fact that checks were being sent back. And 10:58:10
11 that this was activity which was not in compliance with
12 the standstill agreement that we had with GMAC. And, I
13 believe, an attempt to refund money that had been paid by
14 my clients in conformity with a modification, which GMAC
15 had proposed to us, which we accepted, in which my client 10:58:28
16 sent money which GMAC cashed. That's it.

17 BY MR. BUELL:

18 Q And just to clarify, so we're -- I don't think
19 we're all on the same page right now. The word agreement
20 is being used and, frankly, there's at least three 10:58:41
21 agreements that I see that are floating out there that the
22 term could attach to. You've used the term standstill
23 agreement. There's the alleged modification that forms
24 the basis of the Complaint. And then there's the
25 agreement which is the actual note and deed of trust. So 10:58:58

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1 I'm just trying to specifically relate your testimony,
2 when you use the term agreement, to which agreement are
3 you referring to?

4 A I don't know what you mean by your question.

5 I'm sorry.

10:59:12

6 Q Okay. Looking at Exhibit 29. It seems to be a
7 time line from January 14th, 2000 -- it looks like it's
8 been corrected to 2011 -- through May 23rd of 2011; is
9 that correct?

10 MS. STROMEYER: Objection. The document speaks
11 for itself.

10:59:47

12 THE WITNESS: Well, other than the fact that the
13 document speaks for itself, I think the letter lays out
14 what our position is in trying to get GMAC to appreciate
15 what it is they're doing and why they're doing it.

10:59:58

16 BY MR. BUELL:

17 Q Each of these entries when -- and just to
18 clarify, again, for the record. When I use the term entry
19 I'm referring to each of the 13 dates that you list in
20 this letter, which are each followed by a explanation of
21 what occurred, okay? Each of these entries seem to be
22 fairly specific as to what occurred on those dates.

11:00:23

23 Do you recall, when drafting this letter, if you
24 referred to any notes in order to prepare this letter?

25 A I couldn't tell you.

11:00:44

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1 Q Do you recall the specifics of these
2 conversations as you sit here today without reading this
3 letter first?

4 MS. STROMEYER: I'm going to object that this
5 goes over much of the testimony. He's already been asked 11:00:57
6 about several of these conversations before.

7 THE WITNESS: I'm not quite sure what you mean
8 by your question, Counsel.

9 BY MR. BUELL:

10 Q Before reading this letter, which has been 11:01:07
11 marked as Exhibit 29, could you tell me what occurred on
12 April 26th, for example, or is that something that you
13 would need to refer to either this letter or some notes
14 that you have in order to recreate?

15 A I don't know. I can't answer that question. I 11:01:22
16 mean, I know I wrote a letter April 22nd confirming what
17 the offer was for the loan modification. I don't need to
18 review anything to know that. I know it happened. You
19 have the letter. We just went over it. It's Exhibit 25.

20 Now, on May 20th, for instance, I couldn't have 11:01:38
21 known about the fact that GMAC foreclosed on the property
22 and then bought the property itself for \$150,000 less than
23 it was probably valued at. I couldn't have known that,
24 because GMAC didn't tell anybody about that, so that
25 obviously must have happened after the fact. 11:01:54

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1 So, I hope I answered your question.

2 Q Do you recall -- I believe where we were in sort
3 of the time line here is you mentioned several activities,
4 as you put it, occurring leading up to this June 1st
5 letter and then all the way through to your filing of the 11:02:41
6 Complaint. After reviewing this June 1st letter, do you
7 recall what happened next specifically?

8 MS. STROMEYER: Objection. Misstates the
9 witness's testimony, compound.

10 THE WITNESS: What happened after this. I can't 11:02:59
11 give you a specific statement about what happened next,
12 so.

13 MR. BUELL: Okay. Let's go with 30.

14 (Exhibit 30 was marked for identification by the
15 court reporter and attached hereto.) 11:03:30

16 BY MR. BUELL:

17 Q You've been handed what's been marked as Exhibit
18 3. Please take a look at it and let me know what it is,
19 once you've had a chance to review.

20 A This is a letter of June 3rd, 2011 addressed to 11:03:39
21 Jean Short at Pite Duncan, which is the law firm in San
22 Diego, and addressed to Brett Becker, B-e-c-k-e-r, Loss
23 Mitigation concerning the loan [REDACTED] 8940.

24 Q Just to, again, clarify for the record. If you
25 turn to page 2. Was this letter prepared and sent by you 11:04:03

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1 or someone else from your office?

2 A Well, it was signed by Karen Stromeier of my
3 office, my associate, obviously was authorized by our law
4 firm in relation to -- this was -- June 3rd was when GMAC
5 posted a notice to quit the residence of my clients'. 11:04:20

6 Obviously this is problematic since Brett Becker
7 had agreed to a standstill while it was -- they were
8 investigating the modification.

9 Q Did you review this letter before it went out?
10 Or better question. Were you aware of the contents of 11:04:44
11 this letter at the time that it went out?

12 A Yeah. Sure.

13 Q You spoke earlier today about the eviction piece
14 and this law firm in San Diego. Is it accurate to say
15 that this letter is confirmation of those discussions, 11:04:58
16 conversations you may have had with the San Diego
17 attorney?

18 MS. STROMEYER: Objection. Calls for
19 speculation, lacks foundation.

20 THE WITNESS: I'm sorry, could you rephrase that 11:05:09
21 question?

22 BY MR. BUELL:

23 Q Sure. Let me rephrase it, sure. And I'll go
24 step-by-step.

25 Is it accurate, first of all, that earlier you 11:05:14

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1 testified about an eviction notice being received by your
2 client?

3 A Correct. Yes.

4 Q Would you say that this June 3rd letter is a
5 confirmation of any conversations, communications you had 11:05:26
6 regarding that eviction notice that was received with GMAC
7 and the San Diego firm, those representing them?

8 A I don't know. I wouldn't say it's a
9 confirmation of anything. I think what it was was it was
10 clearly a notification to Jason Short, Michael Kraheneuhl, 11:05:44
11 K-r-a-h-e-n-e-u-h-l, and Renée Belcastro,
12 B-e-l-c-a-s-t-r-o, that they were violating the terms of a
13 status quo agreement, which GMAC had agreed with me,
14 pending their investigation of their own conduct. And it
15 was my attempt to get them to, you know, honor that 11:06:10
16 agreement.

17 Q Do you recall how you were first notified of the
18 notice to quit that was posted on the residence?

19 A Yes.

20 Q How was that? 11:06:47

21 A I believe I received a tearful phone call from
22 somebody who said I can't believe that they've nailed a
23 notice to quit on the front door of our house.

24 Q I'm sorry if I did ask you this one before. Do
25 you recall any specific conversations with GMAC after the 11:07:21

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1 lawsuit was filed?

2 A After the lawsuit was filed.

3 Q If it provides any context for you, your

4 Complaint was filed -- the Complaint was filed on

5 June 8th, 2011.

11:07:41

6 A You know, I think I may have had a conversation

7 with somebody at GMAC that said -- and I'm not entirely

8 sure, but I may have actually said, look, here's a draft

9 of the Complaint. Can you please get somebody from your

10 litigation department, the legal, to give me a call,

11:07:57

11 because the people I've been dealing with, obviously,

12 aren't the people that are really going to be able to make

13 decisions here. Can I get somebody. I don't think it

14 ever happened, so.

15 Q So just to follow up and close that loop. Did

11:08:09

16 you ever talk with somebody from the litigation --

17 A I don't think I ever had a conversation with

18 anyone who represented themselves to be the legal

19 representative of GMAC. I mean, usually you have a legal

20 department. Everybody has a legal department. Nothing.

11:08:21

21 So --

22 Q And with the next several questions I'm not

23 interested in conversations you had with attorneys from

24 outside firms representing GMAC, so if that's the answer,

25 so be it. I'm just trying to figure out where this time

11:08:33

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1 line ends.

2 A I think the time line may have ended when your
3 office stepped into the foray and -- and that was it. So
4 maybe that was the response, was to refer to you guys. I
5 don't know. 11:08:46

6 Q Do you recall any conversations with GMAC about
7 rescinding the foreclosure sale?

8 A There was never a notification from us that they
9 were rescinding the foreclosure sale. They simply did it.
10 And I don't know how I learned about it off the top of my 11:09:16
11 head, but I know I did learn about it.

12 Q And then -- sorry I'm jumping around a little
13 bit here, but back to the unlawful detainer, the eviction
14 piece.

15 Following the June 3rd communication to Pite 11:09:29
16 Duncan and Brett Becker of Loss Mitigation at GMAC, do you
17 recall if you ever received a response to this
18 communication?

19 MS. STROMEYER: Mr. Halloran personally?

20 BY MR. BUELL: 11:09:48

21 Q When I say "this communication" I'm referring to
22 Exhibit 30.

23 A I don't know off the top of my head. I know
24 that somewhere along the line, the lines of communication
25 between this law firm and GMAC must have connected, 11:09:55

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1 because they ceased and desisted in that regard, trying to
2 evict my clients, so.

3 Q Do you know if an actual Unlawful Detainer
4 Complaint was ever filed?

5 A I do not know off the top of my head. 11:10:12

6 Q And just to phrase it in a different way. Do
7 you know of any action, beyond the three-day notice to
8 quit being posted on the door of the residence? Was
9 anything else ever done regarding the eviction process?

10 A If it was, I don't know about it. 11:10:29

11 Q Are you aware of any current status of eviction
12 proceedings?

13 A I'm not aware of any status right now.

14 Q Back to our conversation regarding rescinding
15 the foreclosure sale. I believe -- and I just want to 11:10:53
16 clarify your testimony before I go with the next question.
17 I believe you said you never received any communication,
18 phone call, writing, et cetera, that the foreclosure had
19 been rescinded, you just -- I think you said learned of
20 it? 11:11:12

21 A I don't know how I learned of it.

22 Q But you did learn of it in some fashion?

23 A Yes, at some point in time I had learned that
24 they had done that.

25 Q But you don't recall how? 11:11:19

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1 A Exactly.

2 Q And you don't know what document then that you
3 saw that confirmed for you that the sale had been
4 rescinded?

5 A Here is what I do recollect. I think I had one 11:11:28
6 of my assistants actually go on line and check to see what
7 the status was, because I was a bit concerned, having seen
8 GMAC do a few things without notifying me, like sell the
9 property. I wanted to see if they were adhering to the
10 honor of the status quo thing. And at that point, I 11:11:44
11 believe somebody in my office looked it up and said, oh,
12 it looks like they rescinded the foreclosure and deeded it
13 back to your clients. And that was how I learned about
14 it.

15 Q Are you aware of any other foreclosure 11:11:54
16 proceedings taking place after the rescission of the
17 foreclosure sale?

18 MS. STROMEYER: Regarding this property?

19 MR. BUELL: Correct.

20 THE WITNESS: I'm not sure I understand your 11:12:04
21 question.

22 BY MR. BUELL:

23 Q I assume, based on your testimony so far, you
24 don't recall, as you sit here right now, the date that the
25 foreclosure was rescinded. 11:12:14

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1 A No, I don't.

2 Q So just hypothetically speaking, let's say the
3 foreclosure was rescinded, to give us a date, of June 20,
4 2011, okay? Do you know if anything has happened post
5 June 20th regarding foreclosure of the subject property? 11:12:29

6 A Well, I mean there's ongoing litigation
7 concerning it that relates to the foreclosure. I know
8 that on at least one, and maybe two occasions, Clayton
9 received a letter from us that said why does your client
10 keep trying to send us money back to undo the terms of the 11:12:47
11 loan modification. I know that that happened.

12 Q But as far as a recorded document, for example,
13 a notice of default, notice of trustee sale, are you aware
14 of any further documents being recorded regarding a
15 sale? 11:13:06

16 A Neither you, your law firm, nor GMAC has sent
17 any such documents to me.

18 MR. GADDIS: For the record, Clayton is Clayton
19 Gaddis, counsel for GMAC.

20 BY MR. BUELL: 11:13:18

21 Q Just to put you guys at ease, I don't believe
22 anything has happened, so I'm not getting at that. I want
23 to make sure we weren't unaware of something.

24 I think that brings us to the end of the time
25 line piece. Is there anything else you recall from 11:13:34

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1 dealing with the Pite Duncan Law Firm or the eviction
2 piece? I can ask a more specific question, if you like.

3 A I'm not sure I understand what your question
4 is.

5 Q Sure. It was a poorly-worded question, that's 11:13:51
6 why.

7 I believe your testimony regarding the eviction
8 concluded with sort of nothing ever happened after the
9 notice to quit was posted; is that an accurate statement?
10 That you were aware of. 11:14:08

11 A Yeah. I think the way to deposit it is that
12 what appeared to be eviction proceedings were halted.

13 Q Are you aware of any further communications
14 after they were halted, as you put it, with the Pite
15 Duncan law firm? 11:14:24

16 MS. STROMEYER: Objection. Calls for
17 speculation. Between Pite Duncan and who?

18 MR. BUELL: Your firm.

19 MS. STROMEYER: Mr. Halloran?

20 MR. BUELL: Mr. Halloran. 11:14:33

21 THE WITNESS: Yeah, our law firm may have had
22 some further communications with them, but I don't believe
23 I did.

24 MR. BUELL:

25 Q And just so I understand, you may have had some 11:14:39

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1 role in it, but generally it sounds as though you weren't
2 the primary point for dealing with the eviction piece at
3 your firm; is that accurate?

4 A I think it would be accurate to state that
5 Ms. Belcastro, who is the first, second, third person down 11:14:56
6 at the Pite Duncan Law Firm, was the person that was
7 directly involved in handling the eviction. And I believe
8 that Ms. Stromeier was directly involved in discussing
9 with Ms. Belcastro the conduct, which I believe was
10 unwarranted. 11:15:17

11 Q Okay. Thank you.

12 Off the record.

13 (Discussion off the record.)

14 (Recess.)

15 BY MR. BUELL: 11:22:01

16 Q All right. I wanted to revisit the sort of
17 circumstances and events that occurred, we'll call it
18 April 20th to April 23rd, sort of time frame, of 2011.
19 For purposes of context, I want to just sort of refer back
20 to what's been marked as Exhibit 25, which is your letter. 11:22:19
21 Actually, why don't you just -- which is your letter
22 confirming a conversation you had with GMAC; is that
23 correct?

24 A Okay.

25 Q You've testified today, and I believe last week 11:22:51

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1 as well in part one, that this letter confirmed -- was a
2 confirmation letter following up on your conversation with
3 somebody at GMAC. I wanted to just walk through that
4 conversation in as much detail as we possibly can.

5 Do you recall if you placed the phone call to 11:23:10
6 GMAC that started this event or did they contact you?

7 MS. STROMEYER: Vague and ambiguous as to
8 event.

9 MR. BUELL: Sure.

10 Q By event -- I'm trying to think of a good way to 11:23:23
11 term this, so we're all on the same page.

12 The conversation that you had that lead to you
13 drafting this letter, this letter meaning Exhibit 25, was
14 that initiated by a phone call from you to GMAC or from
15 GMAC to you? 11:23:40

16 A I don't recall.

17 Q You've also testified you don't recall who you
18 spoke with during that conversation; is that accurate?

19 A I don't recall the name of the person, no.

20 Q And, again, just to clarify for the record. 11:23:54
21 When I refer to the conversation, for this line of
22 questioning, I mean the conversation that led to you
23 drafting Exhibit 25; is that fair?

24 A Sure. I understand.

25 Q Do you recall if that conversation -- if you 11:24:06

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1 spoke with more than one person?

2 A No. The conversation that I had with the
3 individual, who I believe was a man, was one conversation
4 in which that person said "Congratulations. Here's the
5 terms of the loan modification. Tell your client." I, 11:24:23
6 said, "Great. Let me confirm in a letter to you. We'll
7 make sure we comply and pay the first payment by May."
8 They said "Okay." So I wrote the letter to confirm it.

9 Q Based off of that statement, do you remember
10 this being somewhat of a brief conversation? 11:24:39

11 A It was certainly less than a half hour.

12 Q Would you say on the order of five minutes?

13 A I couldn't give you an opinion about that one
14 way or the other.

15 Q Closer to five than 30? 11:24:51

16 A It was closer to 15 than 30 and somewhere
17 between, you know, five minutes and 15 minutes.

18 Q Do you remember if you went through each of the
19 terms? And I can define what I mean by terms, if you
20 like. If you went through each of the terms individually 11:25:06
21 that you've laid out in your letter with the person you
22 were having the conversation with.

23 A I'm not quite sure what you mean by that.

24 Q Sure.

25 A But let me explain what I think I can best do. 11:25:17

1 I didn't select the terms. The terms were proposed to my
2 client. I didn't add or delete any of the proposed terms.
3 This was what was presented to my client as a modified
4 permanent loan modification. So, once I got these terms
5 and they were acceptable, I confirmed them with this 11:25:37
6 gentleman in this letter and instructed my client that
7 this was what was going to -- you know, this was what you
8 have to do. You have to pay the first month, if you want
9 to abide by. That's what she did.

10 Q You said when you determined that they were 11:25:52
11 acceptable; is that accurate of what you testified to?

12 A Clearly, yeah.

13 Q What was that process of you determining that
14 those terms were acceptable?

15 MS. STROMEYER: Objection. Calls for 11:26:04
16 attorney-client communications.

17 BY MR. BUELL:

18 Q Did you review the terms and see if it was a
19 modification that would fit with your understanding of
20 your clients' financial abilities to repay the loan? 11:26:14

21 A Well, I did a lot of lawyerly things, probably
22 including talking to my client about it, right. But
23 obviously there had been some history of this, because as
24 you well know, there had been a trial loan modification
25 as well, as you may recall, so. 11:26:31

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1 Q And, again, we need to do it one more time, just
2 for the record. What conversations did you have with your
3 clients' regarding the proposed terms that were made to
4 you in this phone call?

5 A Well, whatever conversation -- 11:26:48

6 MS. STROMEYER: Objection. May call for
7 attorney-client communications and attorney work
8 product.

9 THE WITNESS: Yeah. Clearly, my communications
10 with my client about that would be privileged. 11:26:54

11 MR. BUELL: So are you instructing your witness
12 not to answer?

13 MS. STROMEYER: I'm instructing him not to
14 answer this question to the extent it calls for
15 attorney-client communications, yes. 11:27:04

16 BY MR. BUELL:

17 Q Is there -- just to wrap that up. Is there any
18 portion of that that may not call for attorney-client
19 privilege? You just put a condition on the objection.

20 THE WITNESS: Any communications with my client 11:27:15
21 concerning the subject matter of this negotiation would be
22 privileged.

23 MS. STROMEYER: Would be privileged. If he
24 spoke with her about some other thing, that's some other
25 thing, but -- 11:27:25

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1 MR. BUELL: Okay. Then I won't press that issue
2 anymore. You've made your objection clear on the record.

3 Q Did you have, at the time, time being April
4 22nd, 2011, did you have written authority from your
5 clients to bind them to a contract? 11:27:50

6 MS. STROMEYER: Objection. May call for
7 attorney-client communication. May call for
8 attorney-client work product.

9 THE WITNESS: I don't know what you mean by
10 written authority. I was their attorney. I was acting in 11:28:05
11 my capacity as their attorney.

12 BY MR. BUELL:

13 Q And I believe you testified last time that you
14 did have a written retainer with the Halloran/Ward group;
15 is that accurate? 11:28:17

16 A I think I did, but if I don't, I had an oral
17 agreement. I haven't looked, but whatever there is, there
18 is an attorney relationship with my clients. And the
19 authority that I have as a disclosed principal would be
20 the same authority that GMAC would have as the undisclosed 11:28:27
21 agent of a principal with the ability to bind, because
22 GMAC, of course, bound -- as an undisclosed agent of a
23 principal, bound themselves to an agreement which they now
24 contend, of course, they didn't have the responsibility,
25 because apparently Wells Fargo didn't approve it. 11:28:44

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1 Of course, we know that's not true as well
2 because Wells Fargo did approve a loan. So in any event,
3 go ahead. What's your next question, Counsel?

4 BY MR. BUELL:

5 Q If you did have a written retainer agreement, 11:28:55
6 would it be maintained in the files located at your law
7 firm?

8 A We do maintain fee agreements in our offices, of
9 course.

10 Q Was it your understanding at that time that you 11:29:03
11 had the authority to bind your clients to an agreement?

12 A Whatever --

13 MS. STROMEYER: He's already testified.

14 THE WITNESS: -- authority I have with my
15 clients to bind them to any agreements, that's my 11:29:15
16 authority.

17 Let me just put it this way. Generally I don't
18 write letters confirming agreements unless I believe I
19 have the authority to do so.

20 BY MR. BUELL: 11:29:28

21 Q Back to the conversation you had with the
22 individual at GMAC. Again, conversation refers to the
23 conversation that forms the basis for this confirming
24 letter, Exhibit 25. Do you recall any discussion about
25 further paperwork being sent to you or your clients 11:29:45

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1 regarding the modification?

2 A Well, I know in the letter I refer to the fact
3 that he said it might take a few days for some paperwork
4 to get through. I do remember that. Of course, they
5 never sent the paperwork. 11:30:04

6 Q That was the next question. Did you ever
7 receive any paperwork?

8 A No, of course not. And we now know why.

9 Q Which is?

10 A There is an unwritten rule at GMAC, which Wells 11:30:12
11 Fargo doesn't know about, apparently, that if they can't
12 get the documents to the borrower before the end of the
13 month, they unilaterally cancel the loan modification and
14 file a new application to the lender for that purpose.
15 And to date I have received no written policy from GMAC 11:30:34
16 that that's an accurate statement, but that's the
17 testimony under oath of your PMK.

18 Q For the record, your understanding to form the
19 basis for the statement you just made; is that your own
20 understanding or does that come from the deposition 11:30:52
21 testimony of the PMK from GMAC?

22 A That is my recollection of the deposition
23 testimony under oath of the PMK designated by GMAC to
24 testify on that basis.

25 Q Do you recall in the conversation that forms the 11:31:09

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1 basis for Exhibit 25, any discussion regarding the need
2 for a modification agreement to be notarized?

3 A No such discussion on that at all.

4 Q Do you recall any conversation with GMAC to put
5 a time frame, January 1st, 2011 through the present about 11:31:27
6 needing a notarized signature of your client?

7 A No, not whatsoever. It was not a condition
8 precedent to the agreement. That means before.

9 Q And just to clarify, you don't recall any
10 discussion of notarization being required? 11:31:45

11 A No. No, that's not correct.

12 Q Okay.

13 A There was no conversation about a notarization.
14 It did not happen.

15 Q Okay. 11:31:55

16 Based on your prior objection, Ms. Stromeier,
17 I'm not going to go into any potential communications your
18 witness had with his clients after this letter either.
19 We'll reserve that, as we discussed in our stipulation on
20 record in the previous portion of this deposition, should 11:32:21
21 we bring a motion to compel; is that fair?

22 MS. STROMEYER: Yes.

23 MR. BUELL: Again, that is based on your
24 instruction of him not to answer the questions based on
25 your objections; is that accurate? 11:32:38

1 MS. STROMEYER: Based on the fact that it
2 contains communications covered by the attorney-client
3 privilege, correct.

4 MR. BUELL: Thank you for clarifying that.

5 THE WITNESS: There is a letter, obviously GMAC 11:32:52
6 wrote back, which I haven't seen, but that might shed some
7 light on this notarization issue.

8 BY MR. BUELL:

9 Q Sure. Let's do this. 31?

10 (Exhibit 31 was marked for identification by the 11:33:13
11 court reporter and attached hereto.)

12 BY MR. BUELL:

13 Q You've been handed what's been marked Exhibit
14 31. Have you seen this letter before?

15 A Yes. 11:33:35

16 Q Please tell us what it is.

17 A It's an April 28th, 2011 letter that GMAC
18 Mortgage sent to my attention concerning the loan
19 modification.

20 Q If you see at the very bottom of the letter at 11:33:46
21 the signature line. It says "Customer Care, Loan
22 Servicing" and then there's two initials. Do you see
23 that?

24 A I do.

25 Q What are those two initials? 11:33:55

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1 A What do they represent?

2 MS. STROMEYER: You're asking him to read the
3 document?

4 BY MR. BUELL:

5 Q Read the document, to start. 11:34:02

6 A Oh, it says "Customer Care, Loan Servicing D.C."

7 Q Do you have any idea as you sit here today, who
8 D.C. might refer to?

9 MS. STROMEYER: Objection. Calls for
10 speculation, lacks foundation that D.C. is a person. 11:34:14

11 THE WITNESS: As I sit here today, I do not know
12 who D.C. is, no.

13 BY MR. BUELL:

14 Q It doesn't refresh your memory in any way about
15 who you may have spoken with? 11:34:25

16 A No.

17 Q For example, D.C. might reference -- I have no
18 idea -- but if the individual's name you spoke with was
19 David, maybe that would refresh your recollection or
20 something to that effect; it doesn't do that? 11:34:37

21 A No.

22 Q Okay. You mentioned just a few minutes ago a
23 letter that was received from GMAC Mortgage following up
24 on Exhibit 25. Is it your understanding that Exhibit 31
25 is that letter that you -- 11:34:59

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1 A Yeah. This is a letter they sent me following
2 my letter to them.

3 Q Do you recall receiving any other documents from
4 GMAC after you received this letter regarding the loan?

5 A No. 11:35:16

6 Q You testified in your prior session that there
7 were occurrences when GMAC would contact your clients
8 directly, despite knowing that you're representing them;
9 is that accurate?

10 A It is accurate, yes. 11:35:34

11 Q Do you know if this letter, Exhibit 31, was sent
12 directly to them by any chance?

13 A Well, they weren't cc'd on the document, so I
14 don't know if they received it directly. Obviously it was
15 addressed to me. 11:35:49

16 Q Do you know if they, they being your clients,
17 either Mr. Ward or Ms. Halloran, ever received a document
18 from GMAC that confirmed they'd been approved for a loan
19 mod other than this Exhibit 31 that was sent to you?

20 A I don't know. 11:36:09

21 Q Is it an accurate statement that you primarily
22 negotiated with GMAC for a loan modification on behalf of
23 your clients?

24 A Primarily as opposed to whom, I guess?

25 Q Your clients. 11:36:38

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1 A Clearly I was the person negotiating the loan
2 modification on their behalf. I was their attorney.

3 Q Just wanted to clarify that before the next line
4 of questioning here.

5 A Yeah. 11:36:49

6 Q And feel free, for the purposes of responding to
7 this question, feel free to refer to any of the exhibits
8 that are before you now.

9 What is your understanding of the permanent
10 modification offer that was presented by GMAC? 11:37:03

11 MS. STROMEYER: Objection. Mr. Halloran is not
12 here to interpret documents or the terms. May call for
13 attorney-client work product or a legal conclusion.

14 THE WITNESS: Well, I think I set forth from our
15 Complaint what I believe the terms were. The terms arose 11:37:20
16 out of a conversation in a presentation by a GMAC employee
17 on or about April 22nd, 2011.

18 BY MR. BUELL:

19 Q Let's walk through each of the terms then.

20 What is your understanding as to what the 11:37:33
21 interest rate on the modification would be?

22 A Well, my understanding now isn't relevant. I
23 mean, in other words, are you asking me what I understood
24 the interest rate was at the time that GMAC offered an
25 interest rate, which my client and I accepted? 11:37:52

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1 Q Let's go through that line. So, yes, at the
2 time it was offered, what was your understanding as to
3 what the interest rate was?

4 A As specified in the Exhibit 25, it was an APR of
5 2.88 percent. 11:38:05

6 Q And what about the term?

7 A 432 payments.

8 Q What about the remaining balance on the loan to
9 be paid in full -- to be paid?

10 A Don't know if there was going to be a remaining 11:38:21
11 balance, but if there was, that wasn't what my
12 modification involved. It was a modification of loan
13 payments.

14 Q So your understanding was the modification offer
15 was based solely on the monthly payment versus the payment 11:38:33
16 schedule over the 432 payments that would be required to
17 pay off the loan?

18 A You're making assumptions that may or may not be
19 true, Counsel.

20 Q Did you -- sorry. I'm stopping myself because 11:38:48
21 you've already testified to the question as to whether or
22 not you ran an amortization schedule on the loan.

23 A That's true. I did testify about that.

24 Q So I won't ask you again.

25 A That's good. 11:39:05

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1 Q Did you review your clients' financials after
2 receiving this proposed modification from GMAC?

3 A Well, if I did, it would be a work product.

4 Q Do you recall if you did review their
5 financials? 11:39:28

6 MS. STROMEYER: Objection.

7 THE WITNESS: Specifically in response to this
8 offer?

9 BY MR. BUELL:

10 Q Yes. 11:39:33

11 A I don't know if I did or not.

12 Q Do you recall if you made any determination as
13 to whether or not your clients could afford the
14 modification as presented to you?

15 MS. STROMEYER: Objection. Irrelevant, calls 11:39:53
16 for attorney work product. May call for attorney-client
17 communication.

18 THE WITNESS: Yeah, I don't know off the top of
19 my head.

20 BY MR. BUELL: 11:40:01

21 Q Just to clarify. I'm not asking what those
22 determinations were or what that process was, but simply;
23 did you do it?

24 A Yeah, I know. I don't -- off the top of my head
25 I don't recall. Remember, the history of this was that 11:40:10

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1 there was a trial period in which the whole issue of
2 affordability of loan modifications existed, so if you
3 look at what this amount is, it's consistent with what the
4 prior discussions were with regard to affordability, so.

5 Q So am I hearing you correct that the trial plan, 11:40:28
6 which I believe was from January of 2011, was when the
7 determination of affordability was made; is that
8 accurate?

9 MS. STROMEYER: Objection. Vague and ambiguous,
10 lacks foundation. 11:40:49

11 THE WITNESS: I'm not quite sure what you mean
12 by the determination of affordability.

13 BY MR. BUELL:

14 Q Sure.

15 A I believe the way I would interpret this was 11:40:56
16 that, rather than negotiate a specific amount or
17 arms-length negotiations, what GMAC said was we have a
18 program and we're going to fit them into the program and
19 see if it works. And that was the proposal that was done.
20 And then that January through March is when my client 11:41:16
21 complied with that program. And then the next step was,
22 and here's what we are going to do for a traditional loan
23 modification given your clients' track record of payments.
24 So that's how the proposal was made.

25 Q Thank you. And that's exactly what I was 11:41:33

1 looking for. And I was banking off your use of the term,
2 you know, determination of affordability.

3 I think we're good with regards to everything,
4 other than the piece we've left open following a motion to
5 compel. 11:41:55

6 THE REPORTER: Ms. Stromeyer, would you like a
7 copy of the transcript?

8 MS. STROMEYER: Yes.

9 (TIME NOTED: 11:42 a.m.)

1
2
3 I, TIMOTHY HALLORAN, do hereby declare under
4 penalty of perjury that I have read the foregoing
5 transcript; that I have made any corrections as appear
6 noted, in ink, initialed by me, or attached hereto; that
7 my testimony as contained herein, as corrected, is true
8 and correct.

9 EXECUTED this _____ day of _____,
10 20____, at _____, _____.
(City) (State)

11
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13 _____
TIMOTHY HALLORAN

14 Volume II
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3
4 I, Jennifer L. Furia, holding CSR License No.
5 8394, a Certified Shorthand Reporter, licensed by the
6 State of California, hereby certify:

7 That the foregoing proceedings were taken before
8 me at the time and place herein set forth; that any
9 witnesses in the foregoing proceedings, prior to
10 testifying, were placed under oath; that a verbatim record
11 of the proceedings was made by me using machine shorthand
12 which was thereafter transcribed by me or under my
13 direction; further, that the foregoing is an accurate
14 transcription thereof.

15 I further certify I am neither financially
16 interested in the action, nor a relative or an employee of
17 any attorney or party to this action.

18 IN WITNESS WHEREOF, I have this date subscribed
19 my name.

20
21 Dated: February 4, 2012
22
23

JENNIFER L. FURIA

Certified Shorthand Reporter

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[& - agreement]

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